

**Part-I**

**DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB**

**Notification**

**No.10-Leg./2002.-** The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 8<sup>th</sup> July, 2002 and is published for general information :-

**THE PUNJAB INFRASTRUCTURE (DEVELOPMENT & REGULATION)  
ACT, 2002**  
(Punjab Act No. 8 of 2002)

AN

ACT

**to provide for creation, development, maintenance and operation of infrastructure and for the matters connected therewith or incidental thereto<sup>1</sup>.**

Be it enacted by the Legislature of the State of Punjab in the fifty-third year of the Republic of India as follows :

**CHAPTER I : PRELIMINARY**

**1. Short title and commencement**

- (1) This Act may be called the Punjab Infrastructure (Development & Regulation) Act, 2002.
- (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

**2. Definitions -** In this Act, unless the context otherwise requires,-

- (1) "**Authority**" means the Punjab Infrastructure Regulatory Authority established under section 4;

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<sup>1</sup> As substituted *vide notification no.39-Leg./2015 dated 09.12.2015 & notification no.26-Leg./2016 dated 04.07.2016*

PUNJAB GOVT. GAZ. (EXTRA.), JULY 9, 2002  
(ASAR 18, 1924 SAKA)

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- (2) **"Board"** means the Punjab Infrastructure Development Board established under section 18;
- (3) **"bye-laws"** means the bye-laws made by the Board under section 24;
- (4) **"Chairperson"** means the chairperson of the Authority;
- (5) **"concession"** includes any right or interest granted to a concessionaire in relation to any aspect of an infrastructure project, as well as any subsidy, subvention, grant or other similar financial incentive granted by the State Government to secure the viability and commercial efficacy of an infrastructure project;
- (6) **"concession agreement"** means any of the contracts executed for the purposes of private participation in an infrastructure project between a concessionaire and a public infrastructure agency in terms of this Act, or the rules or regulations made there under as per the model specified in Schedule II;
- (7) **"concession fee"** means the sum of money required to be paid by the concessionaire to a public infrastructure agency in consideration of grant of a concession for undertaking an infrastructure project pursuant to the provisions of this Act, rules or regulations made thereunder;
- (8) **"concessionaire"** means a person, who is selected and awarded a concession for financing, development, maintenance or operation of an infrastructure project in terms of this Act or rules or regulations made thereunder;
- (9) **"committee"** means a committee and includes a Sectoral Sub-Committee, Project Implementation Sub-Committee or any other Committee called by any other name, constituted by the Board under this Act for the purposes assigned to them;
- (10) **"development"** includes creation of new facilities, rehabilitation, improvement, expansion, alteration and replacement of existing facilities;
- (11) **"Development Fund"** means the Punjab Infrastructure Development Fund constituted under section 27;
- (12) **"disinvestment"** means a sale of equity or shares held by the State Government or a public body to any person;
- (13) **"fee"** means a charge levied and collected for facilitating the development, maintenance and providing of infrastructure facilities under this Act;
- (14) **"infrastructure project"** means a project in any of the infrastructure sectors, which may involve development, maintenance or operation of infrastructure facilities through private participation or financial sources other than those provided by State Budget;
- (15) **"infrastructure sector"** means an infrastructure sector specified in Schedule I and shall include such other sectors as may be notified by the State Government from time to time in this behalf;
- (16) **"milestone bonding"** means a schedule or chart indicating the specified time within which a work is to be completed.

- (17) **"negotiated contract"** means a contract entered into by the State Government in terms of section 36;
- (18) **"notification"** means a notification published in the Official Gazette of the State of Punjab;
- (19) **"prescribed"** means prescribed by the rules made under this Act;
- (20) **"private participation"** means the participation in development, maintenance or operation of infrastructure projects by any person other than the State Government, public infrastructure agency or public body as may be permitted by the Board from time to time;
- (21) **"Project Management Team"** means a team of expert officials of the Board<sup>2</sup>;
- (22) **"public body"** means a body either established by State Government or working under the control of the State Government;
- (23) **"public infrastructure agency"** means a Government Department, Government Company, Government-owned or controlled Corporation, Local Authority or a Public Body, which own, govern or control infrastructure sectors or infrastructure projects;
- (24) **"regulations"** means the regulations made by the Authority under section 17;
- (25) **"rules"** means the rules made by the State Government under section 46;
- (26) **"Schedule"** means a schedule appended to this Act;
- (27) **"Schedule of amortisation"** means a schedule of periodic payments of interest and principal owed on a debt obligation;
- (28) **"section"** means a section of this Act;
- (29) **"sectoral policy"** means a policy pertaining to an infrastructure sector;
- (30) **"service provider"** means any agency or body other than those constituted under the Act, which provides services to the Board;
- (31) **"special purpose vehicle"** means any body or authority, consisting of experts in the relevant fields as may be constituted by the Board to execute an infrastructure project;
- (32) **"State Government"** means the Government of the State of Punjab in the Department of Finance;
- (33) **"tariff"** means a toll or charge or fee, other than the fee levied under clause (13) of section 2 and section 25, payable by the users of an infrastructure project;
- (34) **"unsolicited proposal"** means a proposal for the development, maintenance or operation of an infrastructure project received from any person without any invitation or a proposal initiated by the State Government or the Board in terms of section 37; and
- (35) **"Vice-Chairperson"** means the Vice-Chairperson of the Authority.

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<sup>2</sup>

*As amended vide notification no.31-Leg./2003 dated 03.11.2003*

**CHAPTER II : PRIVATE PARTICIPATION IN THE  
INFRASTRUCTURE PROJECTS**

**3. Private Participation**

Any person may participate in the accomplishment of the infrastructure projects in terms of the provisions of this Act:

Provided that where participation is sought by any person by participating in disinvestment process, the provisions of this Act shall not apply:

Provided further that any authority or body, constituted to implement such disinvestment, may seek assistance from the Authority, Board, Committee or the Project Management Team as the case may be.

**CHAPTER III: PUNJAB INFRASTRUCTURE  
REGULATORY AUTHORITY**

**4. Establishment of the Authority<sup>3</sup>**

- (1) The State Government<sup>4</sup> shall, by notification, establish for the purpose of this Act, an authority to be called the Punjab Infrastructure Regulatory Authority.
- (2) The Authority shall be a body Corporate known by the aforesaid name having perpetual succession and a common seal with power, subject to the provisions of this Act to acquire, hold and dispose of property, both movable and immovable and to contract and shall, by the said name, sue or be sued.
- (3) The Head Office of the Authority shall be at Chandigarh<sup>5</sup> or at such place, as the State Government may notify from time to time.

**5. Composition of the Authority.**

- (1) The Authority shall consist of a Chairperson and two other Members duly appointed by the State Government by notification in the Official Gazette<sup>6</sup>.

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<sup>3</sup> Established vide notification no.1/5/70/2009-5FE4/470 dated 07.10.2009

<sup>4</sup> As amended vide notification no.31-Leg./2003 dated 03.11.2003

<sup>5</sup> Directed vide notification no.1/5/70/2009-5FE4/475 dated 08.10.2009

<sup>6</sup> As amended vide notification no.39-Leg./2015 dated 09.12.2015 & notification no.26-Leg./2016 dated 04.07.2016

- (2) The Chairperson<sup>7</sup>, shall either be a retired Chief Justice or a serving or retired Judge of the Supreme Court or a retired Chief Justice of a High Court or a serving or retired Judge of a High Court or a serving or retired officer of the rank and status of the Chief Secretary of the State of Punjab or Secretary to the Government of India.
- (3) The members shall possess the qualifications specified in sub-section (5).
- (4) The State Government may appoint one of the members, by notification as<sup>4</sup> Vice-Chairperson of the Authority.
- (5) The members appointed under sub-section (1), shall have the following qualifications and experience in the fields of Management of Infrastructure Sectors or Infrastructure Projects, Law, Finance, Economics or Commerce -
- (i) **Qualifications and experience in the field of management of infrastructure sector or infrastructure project:-** Relevant professional qualifications and a minimum experience of ten years of working after acquiring the said qualifications in a Government department or public sector organisation or in a private sector organisation; having annual turnover of one hundred crore rupees or more in any infrastructure sector in respect of conceptualizing, appraisal, development, financing or implementation of infrastructure projects;
  - (ii) **Qualifications and experience in the field of Law:-** A serving or a retired District and Sessions Judge or a person qualified to be a District and Sessions Judge;
  - (iii) **Qualifications and experience in the field of Finance, Economics or Commerce:-**

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<sup>7</sup> Appointed vide notification no.1/5/70/2009-5FE4/638 dated 12.11.2009, thereafter, vide notification no.1/5/70/2009-5FE4/226 dated 15.12.2014

**Qualifications:**

- (a) Membership of the Institute of Chartered Accountants of India; or
- (b) Post Graduation in Economics, Commerce, Management or Engineering.

**Experience:-**

- (a) Ten years' experience of working after acquiring the said qualifications in a Government department or public sector organisation or in a private sector organisation having annual turnover of one hundred crore rupees or more; or
  - (b) Ten years' teaching experience in a university or a college, recognised by the University Grants Commission or an institute recognised by the All India Council of Technical Education.
- (6) Before appointing any person to the Authority as a Chairperson or Vice-Chairperson or member, as the case may be, the State Government shall satisfy itself that the person does not have any financial or other interest, which may affect prejudicially his functioning as a Chairperson or Vice-Chairperson or member of the Authority.

**6. Powers of Chairperson and Vice-Chairperson<sup>8</sup>**

- (1) The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority. The Chairperson shall, preside over the meetings of the Authority as well as exercise and discharge the powers and functions of the Authority vested in him in accordance with the regulation.
- (1-A) Where there is a provision, for appointment of sole Arbitrator by the Government/ Government agencies, in an agreement entered into between two or more Contractors, or contractor/contractors on one side and a Department, Public Sector Undertaking, Board, Corporation, Society or Agency under the control of the State Government on the other side, regarding the creation, development, maintenance and operation of infrastructure related projects and for matters connected therewith or incidental thereto of the State Government, in such a case, the Chairperson or any member so nominated by the Chairperson shall be deemed to be the sole Arbitrator, under the Arbitration and

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<sup>8</sup> Amended vide notification no.36-Leg./2017 dated 29.12.2017

Conciliation Act, 1996 (Act 26 of 1996) in disputes where the claimed amount is five crore rupees and above.

- (1-B) Where there is a provision, for appointment of two or more Arbitrators one of them to be appointed by the Government/ Government agencies, in an agreement entered into between two or more Contractors, in an agreement entered into between two or more contractors, or a contractor/contractors on one side and a Department, Public Sector Undertaking, Board, Corporation, Society or Agency under the control of the State Government on the other side, regarding the creation, development, maintenance and operation of infrastructure related projects and for matters connected therewith or incidental thereto of the State Government, in such a case, the Chairperson or any member so nominated by the Chairperson shall be deemed to be the Arbitrator required to be appointed by the Government/ Government agencies under the Arbitration and Conciliation Act, 1996 (Act 26 of 1996), in disputes where the claimed amount is five crore rupees and above.
- (2) The Vice-Chairperson shall exercise and discharge the powers and functions of the Chairperson, in the absence of the Chairperson, in accordance with the regulations.

**7. Term of office and conditions of service of the Chairperson, Vice-Chairperson and other members**

- (1) The Chairperson shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier.
- (2) The term of office and other conditions of service of a member shall be applicable to the Vice-Chairperson.
- (3) A member shall hold office for a term of five years from the date on which he enters upon his office or the date on which he attains the age of sixty-eight years, whichever is earlier.
- (4) If a person already holding an office is appointed as a Chairperson or a member, as the case may be, he shall have to resign from that office before joining the Authority.
- (5) The salary and allowances<sup>9</sup> payable to, and the other terms and conditions of the

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<sup>9</sup> *Notified vide notification no.1/5/70/2009-5FE4/700 dated 30.11.2010*

Chairperson, Vice-Chairperson and other members shall be such, as may be prescribed and the same shall not be varied to their disadvantage during their tenure.

- (6) Notwithstanding anything contained in sub-sections (1), (2) and (3), the Chairperson or the Vice-Chairperson or a member, as the case may be, may :-
- (i) relinquish his office by giving a written notice of at least three calendar months to the State Government; or
  - (ii) be removed from his office in accordance with the provisions of Section 8.
- (7) The Chairperson or the Vice-Chairperson or any other member, ceasing to hold office as such, -
- shall be ineligible for further employment under the State Government; and shall not accept any commercial employment in any infrastructure sector organisation, associated with the Government of the State of Punjab during his term in office, for a period of two years from the date he ceases to hold such office.
- (8) A vacancy caused to the office of the Chairperson or Vice-Chairperson or any other member, as the case may be, shall be filled up within a period of three months from the date on which such vacancy occurs.

**8. Removal and suspension of the Chairperson, Vice-Chairperson and member from office in certain circumstances**

- (1) The State Government may remove the Chairperson, Vice Chairperson or any member from office after complying with the provisions of sub-section (2), if he has,-
- (i) been adjudged insolvent; or
  - (ii) been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
  - (iii) become physically or mentally incapable; or
  - (iv) acquired such financial or other interest as is likely to affect prejudicially his functions in any of the said capacities; or
  - (v) so abused his position as to render his continuance in office prejudicial to the public interest.
- (2) Notwithstanding anything contained in sub-section (1), the Chairperson or Vice-Chairperson or member, as the case may be, shall not be removed from his office unless,-
- (i) a reference is made by the State Government to the Chief Justice of the High



Court of Punjab and Haryana seeking an enquiry and recommendation on the proposed removal of the Chairperson or Vice-Chairperson or member along with the grounds for the removal and material supporting such proposal;

- (ii) the reference is duly enquired into by an inquiry committee headed by a sitting or retired High Court Judge or any other person appointed by the Chief Justice of the High Court of Punjab and Haryana; and
- (iii) the inquiry committee makes recommendation that the Chairperson or Vice-Chairperson or member ought to be removed on such ground or grounds.

(3) The State Government may suspend the Chairperson, Vice-Chairperson or any member of the Authority in respect of whom a reference has been made to the Chief Justice under sub-section (2), until any recommendation is made by the inquiry committee appointed by the Chief Justice.

## **9. Meetings**

- (1) The Authority shall meet at such times and places and shall follow such procedure to transact its business in the meetings, as may be specified in the regulations.
- (2) The Chairperson or, if for any reason he is unable to attend a meeting of the Authority, the Vice-Chairperson, and in his absence, any other member chosen by the members present from amongst themselves at the meeting, shall preside over the meeting.
- (3) All questions which come up before any meeting shall be decided by a majority vote of the members present and voting, and in the event of an equality of votes, the person presiding, shall have a second or casting vote.

## **10. Vacancies not to invalidate proceedings of the Authority**

No act or proceeding of the Authority shall be invalid merely by reason of :-

- (i) any vacancy in, or any defect in the constitution of the Authority; or
- (ii) any defect in the appointment of a person acting as a member of the Authority; or
- (iii) any irregularity in the procedure of the Authority not affecting the merits of the case.

## **11. Officers and other employees of Authority**

- (1) The Authority may appoint officers and such other employees, as it considers necessary for the efficient discharge of its functions under this Act.
- (2) The salary and allowances payable to and the other conditions of service of the officers and employees of the Authority appointed under sub-section (1), shall be such as may be

determined by regulations.

**12. Finance, accounts and audit**

- (1) After the Authority is established by the State Government, the Authority shall open an account in any nationalized bank or a bank authorized by the Reserve Bank of India to carry out the banking business. The following may be credited to the Account, namely –
  - (i) contribution received from the State Government
  - (ii) grants received by the Authority; and
  - (iii) any other sum received by the Authority from any sources including fees fixed by the Authority under the regulations for the proceedings before the Authority.
- (2) The Account shall vest in and be administered by the Authority, which will apply the same to meet the various expenses of the Authority, including the salaries, allowances and administrative expenses defrayed for purposes authorised by this Act.
- (3) The Authority shall cause its books and accounts to be maintained, and its annual accounts to be prepared in the form prescribed by the State Government in consultation with the Accountant General, Punjab.
- (4) The annual accounts of the Authority shall be audited by the Accountant General, Punjab and any expenditure incurred in connection with such audit, shall be payable by the Authority.
- (5) The Accountant General, Punjab and any other person appointed by him in connection with the audit of the Accounts of the Authority, shall have the same rights and privileges as the Accountant General, Punjab generally has in connection with the audit of the State Government accounts and, in particular, the rights to demand production of the relevant books, accounts, supporting vouchers and other documents and papers of the Authority, for inspection.
- (6) The accounts of Authority as certified by the Accountant General, Punjab or any other person appointed by him in this behalf along with the audit report with respect thereto, shall be forwarded annually to the State Government, which shall cause the same to be laid before the State Legislative Assembly.

**13. Furnishing of returns to the Legislative Assembly**

- (1) The Authority shall prepare an annual report every year giving a summary of its activities done during the previous year in such form and at such place, as may be prescribed and copies of the report shall be forwarded to the State Government for laying them before the Legislative Assembly.
- (2) The Authority shall furnish to the State Legislative Assembly, at such time and in such form and manner as may be prescribed or required by the State Legislative Assembly, the

returns, statements and particulars in regard to any proposed or existing program for the promotion and development of the infrastructure sector.

**14. Functions of the Authority**

- (1) The Authority shall discharge the following functions, namely:-
- (i) to aid and advise the State Government in the formulation of appropriate policy or guidelines relating to tariff;
  - (ii) to conduct the public hearing regarding the approval of proposed infrastructure projects in terms of section 30;
  - (iii) to determine, modify or vary the tariff on the basis of the concessions granted to the concessionaires and the interest of the consumer;
  - (iv) to regulate the working of the concessionaire and promote efficient, economical and equitable performance, including laying down standards of performance of the concessionaire in regard to the service to the consumer;
  - (v) to adjudicate upon appeal preferred to it against an order passed by the Board or the State Government related to the approval of an infrastructure project or the award of a concession;
  - (vi) to adjudicate upon disputes inter-se two or more Concessionaires, operators of infrastructure projects, the State Government and the Board; and
  - (vii)<sup>10</sup> to adjudicate upon, as an Arbitrator, the disputes inter-se between two or more contractors, or a contractor/contractors, on one side and a Department, Public Sector Undertaking, Board, Corporation, Society or Agency under the control of the State Government on the other side, regarding the creation, development, maintenance and operation of infrastructure related projects and for matters connected therewith or incidental thereto of the State Govt. under the Arbitration and Conciliation Act, 1996 (Act 26 of 1996), where the claimed amount is five crore rupees and above.

Provided that the Authority shall not discharge any of the aforesaid functions or any other such functions in respect of which The Punjab State Electricity Regulatory Commission established under sub-section (1) of section 17 of the Electricity Regulatory Commissions Act, 1998 (Act no. 14 of 1998), is empowered to discharge.

- (2) The Authority shall always act consistent with the objectives and purposes for which it

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<sup>10</sup> *Added vide notification no.36-Leg./2017 dated 29.12.2017*

has been established.

- (3) Orders passed by the Authority in exercise of its powers under this Act, shall be final and binding on all concerned and shall be executable as a decree.

**15. Authority to have powers of a Civil Court**

- (1) The Authority, in conduct of all proceedings before it and in exercise of its powers under this Act, will be guided by the principles of natural justice.
- (2) The Authority shall have, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of, -
- (i) summoning and enforcing the attendance of any person and examining him on oath;
  - (ii) requiring the discovery and production of documents;
  - (iii) receiving evidence on affidavits;
  - (iv) issuing commissions for the examination of witnesses or documents;
  - (v) reviewing its decisions;
  - (vi) dismissing an application for default or deciding it ex-parte, setting aside any order of dismissal or any application for default or any order passed by it ex-parte; and
  - (vii) any other matters as the Authority may specify by regulations.

**16. Proceedings before the Authority shall be deemed to be Judicial Proceedings**

- (1) All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860, and the Authority shall be deemed to be a 'Civil Court' for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
- (2) Every proceeding before the Authority shall be completed within a period of ninety days of its commencement, except where the time period is extended by the Authority for the reasons to be recorded in writing.

**17. Power of Authority to make Regulations**

- (1) The Authority may make regulations for the proper performance of its functions under this Act.
- (2) In particular and without prejudice to the generality of the foregoing power and of matters specifically provided for in this Act, such regulations may provide for all or any of the following matters, namely; -

- (i) Specifying procedure to transact business in the meetings under section 9;
- (ii) Determining of salaries, allowances and other conditions of service of the officers and other employees of the Authority under sub-section (2) of section 11; and
- (iii) Fixing of sums received by the Authority under clause (iii) of sub-section (1) of section 12.

#### **CHAPTER IV : PUNJAB INFRASTRUCTURE DEVELOPMENT BOARD**

##### **18. Establishment of the Board**

- (1) With effect from such date, as the State Government may by notification appoint, there shall be established a Board for the purposes of this Act to be called the Punjab Infrastructure Development Board:

Provided that till the Board is constituted under this Act, the Board already established under section 3 of the Punjab Infrastructure Development Act, 1998 (Punjab Act No.1 of 1999) shall be deemed to have been constituted under this section.

- (2) The Board established under sub-section (1), shall consist of a Chairman, Vice-Chairman and the following, namely:-

- |                    |   |     |                               |
|--------------------|---|-----|-------------------------------|
| (a)                | The Chief Minister of Punjab  | ... | Chairman                      |
| (aa) <sup>11</sup> | Omitted <sup>12</sup>   |     |                               |
| (b)                | The Minister of Finance of Punjab   | ... | Vice Chairman                 |
| (c)                | The Chief Secretary to Government of Punjab   | ... | Member                        |
| (d)                | The Principal Secretary to Government of Punjab, Department of Finance                        | ... | Member Secretary-cum-Convenor |
| (e)                | Principal Secretary to the Chief Minister of Punjab   | ... | Member                        |
| (f)                | Managing Director of Board  | ... | Member                        |
| (g)                | Three technical experts to be nominated by the State Government <sup>13, 14, 15, 16, 17</sup> | ... | Member                        |

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<sup>11</sup> As amended vide notification no.38-Leg./2013 dated 23.05.2013 (Punjab Ordinance No.1 of 2013) and thereafter vide notification no.58-Leg./2013 dated 11.12.2013 (Punjab Act No.47 of 2013)

<sup>12</sup> Omitted vide notification no.17-Leg./2017 dated 27.07.2017 (Punjab Act No.13 of 2017)

<sup>13</sup> As amended vide notification no.10(7)29/02-5FE-4/7066 dated 19.08.2002

<sup>14</sup> As amended vide notification no.31-Leg./2003 dated 03.11.2003

<sup>15</sup> As amended vide notification no. 10(7)29/02-5FE-4/5962 dated 27.08.2004

<sup>16</sup> As amended vide notification no. 10(7)29/02-5FE-4/3384 dated 15.05.2006

<sup>17</sup> As amended vide notification no. 10(7)29/02-5FE-4/450 dated 01.10.2009

- (h) The Minister-in-charge of the concerned Administrative Department<sup>14</sup>; and ... Special Invitee
- (i) The Administrative Secretary of the concerned Administrative Department<sup>14</sup>. ... Special Invitee
- (3) The Board may constitute an Executive Committee to aid and assist the Board in the discharge of its functions.
- (4) The Executive Committee shall consist of the following, namely;-
- (a) The Chief Secretary to Government of Punjab .. Chairman
- (b) The Principal Secretary to Government of Punjab, Department of Finance
- (c) Principal Secretary to the Chief Minister of Punjab
- (d) Managing Director of the Board .. Convenor, and
- (e) Any one other person<sup>18</sup> to be nominated by the Board.<sup>19</sup>
- (5) The Administrative Secretary of the concerned Administrative Department shall be the special invitee to the Executive Committee<sup>20</sup>.
- (6) In addition to the above, the Board may appoint from time to time such Sectoral Sub-Committees and Infrastructure Project Implementation Sub-Committees in terms of section 21, as may be considered necessary for carrying out the purposes of this Act<sup>18</sup>.
- (7) The Board shall meet at such time and place and shall observe such procedure to transact its business in the meetings as may be specified by bye-laws.

**19. Vacancies not to invalidate proceedings of the Board**

No act or proceeding of the Board shall be invalid merely by reason of, -

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<sup>18</sup> As amended vide notification no.31-Leg./2003 dated 03.11.2003

<sup>19</sup> As per the decision taken by the Punjab Council of Ministers in its meeting dated 10.10.2007 and ratified by EC in its meeting dated 24.10.2007 & by the Board in its meeting dated 22.05.2008, **Financial Commissioner (Revenue)** has been appointed as the member of EC

<sup>20</sup> As per the decision taken by the Punjab Council of Ministers in its meeting dated 10.10.2007 and ratified by EC in its meeting dated 24.10.2007 & by the Board in its meeting dated 22.05.2008, following have been appointed as Permanent Special Invitees:-

- (i) Principal Secretary/ Secretary-Planning  
(ii) Principal Secretary/ Secretary-Housing & Urban Development  
(iii) Principal Secretary/ Secretary-Local Government

- (i) any vacancy in, or any defect in the constitution of the Board; or
- (ii) any defect in the appointment of a person acting as a Chairman <sup>21, 22</sup> or Vice-Chairman or member of the Board; or
- (iii) any irregularity in the procedure of the Board not affecting the merits of the case.

**20. Functions and Powers of the Board**

- (1) Subject to the limitations specified in sub section (3), the Board shall be the apex body in the State of Punjab for overall planning for development of infrastructure sectors and infrastructure projects.
- (2) The Board shall:-
  - (i) act as a nodal agency to co-ordinate all efforts of the State Government regarding the development of the infrastructure sectors, involving private participation and funding from sources other than those provided by State budget and will,-
    - (a) identify infrastructure projects for private participation<sup>19</sup>;
    - (b) promote competitiveness and progressively involve private participation while ensuring fair deal to the consumers;
    - (c) identify bottlenecks in the infrastructure sectors and recommend to the State Government, policy initiatives to rectify the same;
    - (d) select, prioritise and determine sequencing of infrastructure projects;
    - (e) formulate clear and transparent policies related to the infrastructure sectors so as to ensure that project risks are clearly identified and allocated between the stakeholders; and
    - (f) identify the sectoral concessions to be offered to concessionaires to attract private participation and secure availability of viable infrastructure facilities to the consumers;
  - (ii) prepare internally or through external consultants or service providers engaged for the purpose, all necessary documents including the bid or tender documents, draft contracts including the various contractual arrangements and incentives to be offered by the State Government;
  - (iii) create a Fund to be known as Punjab Infrastructure Initiative Fund, which shall vest in the Board to carry out the pre-feasibility and feasibility studies and the preparing of reports for the proposed infrastructure projects, along with the collection of the relevant data. The Punjab Infrastructure Initiative Fund will have

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<sup>21</sup> As amended vide notification no.38-Leg./2013 dated 23.05.2013 (Punjab Ordinance No.1 of 2013) and thereafter vide notification no.58-Leg./2013 dated 11.12.2013 (Punjab Act No.47 of 2013)

<sup>22</sup> Omitted vide notification no.17-Leg./2017 dated 27.07.2017 (Punjab Act No.13 of 2017)

- contributions from the Development Fund, budgetary resources of State Government, public bodies and multilateral lending agencies and financial institutions;
- (iv) assist public infrastructure agencies and concessionaires in obtaining statutory and other approvals;
  - (v) recommend the grant of concessions to a public infrastructure agency in accordance with the provisions of this Act, the rules and the regulations made there under;
  - (vi) assist in determining the level and structuring of investments of the State Government and public bodies into infrastructure projects with private participation including holding the investment or part thereof;
  - (vii) create special purpose vehicles for implementing infrastructure projects in terms of section 38 in co-ordination with the State Government or public infrastructure agencies; and
  - (viii) manage and administer the Development Fund and the Punjab Infrastructure Initiative Fund.
- (3) Omitted<sup>23</sup>.
- (4) In order to carry out its functions consistent with the provisions of this Act, the Board shall have the powers to do all or any of the following, namely:-
- (i) acquire, hold, develop or construct such property, both movable and immovable, as the Board may deem necessary for the performance of any of its activities related to the development of infrastructure sectors or infrastructure projects;
  - (ii) advise or recommend to the State Government acquisition of land under the Land Acquisition Act, 1894 for the purposes of infrastructure projects;
  - (iii) lease, sell, exchange, or otherwise make allotments of the property referred to in clause (i) to concessionaire and to modify or rescind allotments, including the right and power to evict the allottees concerned on breach of any of the terms or conditions of such allotment;
  - (iv) borrow and raise money in such manner as the Board may think fit and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, standard security, lien or other security upon the whole or any part of the Board's property or assets (whether present or future), and also by a similar mortgage, charge, standard security, lien or security to secure and guarantee the performance by the Board of any obligation or liability, it may have undertaken or which may become binding on it.
  - (v) constitute a Project Management Team and one or more Advisory Committee or

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<sup>23</sup> Omitted vide notification no.17-Leg./2017 dated 27.07.2017 (Punjab Act No.13 of 2017)



Committees or Sectoral Sub-Committee or Project Implementation Sub-Committee, or engage suitable service providers or advisors or consultants to advise the Board for the efficient discharge of its functions;

- (vi) enter into and perform all such contracts as it may think necessary or expedient for performing any of its functions; and
- (vii) do such other things and perform such other acts as it may think necessary or expedient for the proper conduct of its functions and for carrying into effect the purposes of this Act.

**21. Sectoral Sub-Committee and Project Implementation Sub-Committee.**

- (1) Such Sectoral Sub-Committee or Project Implementation Sub-Committee or Committees may be constituted by the Board from time to time to assist the Board in carrying out its functions, as may be considered necessary for the purposes of the Act.
- (2) For the effective association, consultation and participation of a public infrastructure agency in the decision making of the Board, the Sectoral Sub-Committee or Project Implementation Sub-Committee will comprise of members of the Project Management Team and representatives from the concerned public infrastructure agency.
- (3) The constitution, functioning and powers of the Sectoral Sub-Committee or Project Implementation Sub-Committee will be as per the bye-laws made by the Board.
- (4) The Sectoral Sub-Committee, the Project Implementation Committee or any other Committee called by other name, constituted by the Board under this Act, will be subordinate to the Board and will carry the functions delegated to them by the Board<sup>24</sup>.
- (5) Each Sectoral Sub-Committee will be concerned, in particular, with:-
  - (a) the formulation, review, change and implementation of the sectoral policies for private participation in the infrastructure sector,
  - (b) the conduct of feasibility study and preparation of feasibility report; and
  - (c) formulating the sectoral packages of financial incentives and concessions.
- (6) Each Project Implementation Sub-Committee will be concerned, in particular, with -

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<sup>24</sup> As substituted *vide notification no.31-Leg./2003 dated 03.11.2003*

- (a) providing proposals to the –Board or any other Committee as may be specified in this behalf by the Board<sup>21</sup> for taking decision on project identification and priority,
- (b) finalising the scope and structuring of infrastructure projects,
- (c) pre-bidding and bidding procedures,
- (d) selection of concessionaire and recommending grant of concession, and
- (e) implementing, supervising and monitoring of projects.

**22. Finance, accounts and audit of the Board**

- (1) Subject to the rules, estimates of annual income and expenditure of the Board for the ensuing financial year, shall be got prepared by the Member Secretary of the Board and shall be submitted to the Board for its approval.
- (3) An annual statement of accrued income and expenditure of the Board shall be got prepared by the Member Secretary-cum-Convenor and after obtaining approval of the Board, the same shall be sent to the State Government for information, within a period of three months from the date of closure of the concerned financial year.
- (4) The custody, application and operation of the Development Fund, including borrowing and investment shall be carried out by the Board in accordance with the bye-laws.
- (5) The accounts of the Board shall be audited by the Local Fund Examiner, Punjab.

**23. Officers and Employees of the Board**

- (1) The Board shall have a Managing Director to be appointed by the State Government to assist the Board in its day to day functioning.
- (2) The Board may, with the approval of the State Government, create such other posts and appoint such officers and other employees thereon, as it may consider necessary for the efficient discharge of its functions.
- (3) The conditions of service of officers and other employees referred to in sub-sections (1) and (2) and their functions and duties shall be such, as may be specified in the bye-laws.

- (4) The Managing Director shall exercise the powers of supervision over all the officers and other employees of the Board.
- (5) A contract, after it is sanctioned by the competent authority, shall be signed by the Managing Director, on behalf of the Board:

Provided that where the sanctioning authority of any contract or class of contracts is the Managing Director, such contracts may be signed on behalf of the Board by the Managing Director himself or by any other officer duly authorized by him in this behalf.<sup>25</sup>

#### **24. Powers of the Board to make bye-laws**

- (1) The Board may, with the prior approval of the State Government, make bye-laws for the proper performance of its functions under this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for the following matters, namely:-
  - (i) the constitution, functioning and powers of the Sectoral Sub-Committee, Project Implementation Sub-Committee under sub-section (3) of Section 21;
  - (ii) the custody, application and operation of the Development Fund including, borrowing and investment under sub-section (3) of section 22;
  - (iii) the duties of the Managing Director, officers and employees of the Board and their conditions of service under section 23;
  - (iv) conduct of the meetings of the Board, the time and place at which such meetings shall be held, the procedure to be followed in the transaction of business under sub-section (7) of section 18; and
  - (v) any other matters in relation to which bye-laws are required to be or may be made.

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<sup>25</sup> As amended vide notification no.39-Leg./2015 dated 09.12.2015 & notification no.26-Leg./2016 dated 04.07.2016

**CHAPTER V: LEVY OF FEE AND PUNJAB INFRASTRUCTURE  
DEVELOPMENT FUND**

**25. Levy of fee<sup>26</sup>**

- (1) With effect from the date of coming into force of this Act, and subject to the provisions of this Chapter, every person shall be liable to pay a fee levied under this Act on the sale or purchase of the goods specified in Schedule III, on the value of consumption of electricity being supplied by the Punjab State Power Corporation Limited and purchase of immovable properties, within the State of Punjab at a rate, not exceeding six rupees for every one hundred rupees of the value of goods, electricity consumed and purchase of immovable property as the State Government may, by notification, direct.<sup>27, 28</sup>
- (2) The fee shall be payable at the stage, mentioned in respect of goods in Schedule-III.
- (3) Subject to the provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, reassess, collect and enforce payment of tax under the

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26 As substituted vide notification no. No.27-Leg./2015 dated 15.06.2015 and thereafter notification no.32-Leg./2015 dated 27.11.2015.

27 Prior to the operation of this Act, the State Government in terms of Punjab Infrastructure Development Act, 1998 (since repealed) notified to levy Infrastructure Cess @Rs.1/- per litre on petrol and @Rs.1/- on all agricultural produces w.e.f. 11.11.1998

28 The Govt., in terms of this Act, notified to charge ID Fee :

- @Rs.1/- per litre on petrol and @Rs.1/- on all agricultural produces except fruits, vegetables & pulses as defined in the Punjab Agricultural Produce Market Act, 1961 vide notification no. 7/1/11/2001-5FE4/6349 dated 11.07.2002

**Enhanced on Agricultural Produces from**

- (i) 1% to 2% vide notification no.7/1/11/2001-5FE4/2680 dated 01.04.2008
- (ii) Enhanced from 2% to 3% vide notification no.7/1/11/2001-5FE4/55 dated 24.09.2008 except 2% on Cotton Seed and cotton vide notification no. 7/1/11/2001-5FE4/59 dated 26.09.2008 & clarification of cotton vide notification no. 7/1/11/2001-5FE4/63 dated 10.10.2008

**Enhanced on Petrol from**

Rs.1/- to Rs.2/- & from Rs.2/- to Rs.2.05/- per litre vide notification no. S.O. 19/P.A.8/2002/S.25/2015 dated 21.05.2015 & vide notification no. S.O. 95/P.A.8/2002/S.25/20156 dated 29.12.2016 resp.

**Imposed on Diesel**

@ Rs.1/-per litre & enhanced from Rs.1/- to Rs.1.05/- per litre vide notification no. S.O. 19/P.A.8/2002/S.25/2015 dated 21.05.2015 & vide notification no. S.O. 95/P.A.8/2002/S.25/20156 dated 29.12.2016 resp.

- @Rs.5/- for every hundred rupees on the value of electricity consumed and @Rs.1/- for every hundred rupees on the value of purchase of any immovable property vide notification no. S.O.25/P.A.8/2002/S.25/2015 dated 24.06.2015

Punjab Value Added Tax Act, 2005, shall, on behalf of the Punjab Infrastructure Development Board, assess, reassess, collect and enforce payment of fee, including any interest or penalty, payable by a person under this Act, as if such fee or penalty or interest payable by such a person, is a tax or penalty or interest, payable under the Punjab Value Added Tax Act, 2005, and for this purpose, the aforesaid authorities may exercise all or any of the powers, exercisable by them under the Punjab Value Added Tax Act, 2005 and the rules framed thereunder and the provisions of the Punjab Value Added Tax Act, 2005 relating to the returns, provisional assessment, assessment, reassessment, rectification, review, advance payment of tax, registration of transferee of any business, imposition of the tax liability, carrying on the business on the transfer of successor to such business, transfer of any liability of any firm or Hindu Undivided Family to pay tax in the event of dissolution of such firm or partition of such family, recovery of tax from third parties, appeals, reviews, revisions, rectifications, references, refunds, rebates, interest or penalty, charging or payment of interest, compounding of offences and treatment of documents, furnished by a person as confidential, shall apply accordingly.

- (4) (i) Subject to other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, reassess and collect and enforce electricity duty under the Punjab Electricity (Duty) Act, 2005 shall on behalf of Punjab Infrastructure Development Board also assess, reassess and collect and enforce payment of Infrastructure Development fee on the value of consumption of electricity including any interest or penalty payable by a person under this Act, as if, the fee or penalty or interest payable by such a person under this Act is a duty or penalty or interest payable by such a person under the Punjab Electricity (Duty) Act, 2005; and
- (ii) Subject to other provisions of this Act and the rules made thereunder, such authorities, who are presently engaged in the collection of Stamp Duty, Social Infrastructure Cess shall also be empowered to assess, reassess and collect and enforce Infrastructure Development fee on purchase of immovable properties.
- (5) The fee collected under sub section (1), shall be deposited by the authorities, specified in sub-section (3) and sub-section (4) in the Consolidated Fund of the State<sup>29</sup> within a period of one week from the date of its collection.
- (6) The person shall deposit the amount of fee due from him either in cash or by cheque in a specified bank account.

Explanation : (1) For the purposes of this Act, the expressions "sale", "purchase" and "person" shall have the same meanings as have been assigned to them in the Punjab Value Added Tax Act, 2005.

(2) In respect of levy of Infrastructure Development fee on the value of consumption of electricity, the exemptions granted in respect of levy of electricity duty

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<sup>29</sup> *Substituted vide notification no.17-Leg./2017 dated 27.07.2017 (Punjab Act No.13 of 2017)*

shall mutatis mutandis apply to the levy of Infrastructure Development fee on electricity consumed.

**26. *Omitted***<sup>30</sup>

**27. Constitution of the Development Fund**<sup>31</sup>

- (1) The State Government shall constitute a Fund to be known as the Development Fund which shall vest in the Board.
- (2) The amount of fee charged and collected under this Act, shall be credited to the Consolidated Fund of the State out of which, a budgetary grant may then be provided to the Development Fund, within such period and of such amount, as may be considered necessary. Any other grant from the Central/ State Government, local authorities and any of the authorities shall also be credited to the Development Fund.<sup>32</sup>
- (3) The Development Fund shall be applied for the development of infrastructure sectors by providing infrastructure facilities in the State of Punjab for the benefit of the persons from whom the fee has been charged and collected public at large and for the infrastructure facilities of the country having direct benefit to the economy of the State of Punjab.

**CHAPTER VI: PROJECT IDENTIFICATION & CONCESSIONAIRE  
SELECTION**

**28. Project identification and prioritisation**

- (1) The Board shall be the nodal agency to coordinate all the efforts of the State Government in the identification and prioritisation of infrastructure projects.
- (2) The Board in consultation with the State Government shall scrutinize, evaluate and prioritise infrastructure projects to be developed, managed and operated in the State of Punjab.
- (3) The Board shall inform the State Government of the infrastructure projects so identified. The State Government shall decide within a period of sixty<sup>30</sup> days of the receipt of such information, as to whether and which of the infrastructure projects will be undertaken as State Government projects in a time bound manner.
- (4) Where the State Government decides not to take up an infrastructure project out of its own funds or it fails to decide in this regard within the period as specified in sub-section

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<sup>30</sup> As omitted *vide notification no.31-Leg./2003 dated 03.11.2003*

<sup>31</sup> As constituted *vide notification no.7/1/11/2001/5.FE.4/7637 dated 16.09.2002*

<sup>32</sup> *Substituted vide notification no.17-Leg./2017 dated 27.07.2017 (Punjab Act No.13 of 2017)*

- (3), then such project shall automatically revert back to the Board.<sup>33</sup>
- (5) Upon receipt of the projects referred to in sub-section (4), the Board shall decide as to whether a public private partnership project, is to be executed completely on private participation basis and partly out of development fund or totally funding the same out of the development fund and thereafter the Board, in due consultation with the Project Management Team or the Sectoral Sub-Committee, as the case may be, shall,<sup>33</sup>
- (i) publish the notice containing details of the infrastructure project, in the leading newspapers, inviting objections and suggestions;
  - (ii) assist the Authority in conducting public hearing on objections and suggestions received to finalize the scope of the infrastructure project;
  - (iii) notify infrastructure project inviting bids or placement of request for proposal;
  - (iv) conduct pre-bid processes;
  - (v) conduct evaluation of bids; and
  - (vi) conduct negotiations and recommend the grant of Concession by the Board.
- (6) The Board, may take up any engineering, procurement, construction projects or such projects, which do not involve private participation and can be taken up by it out of the development fund or partly out of the development fund and partly from the funds made available by the State Government or any other source (including Centrally or State sponsored Schemes), as the case may be<sup>33</sup>
- (7) The Board may assign the work of conceptualization, identification, execution and monitoring of any urban or rural infrastructure projects, to the district level Urban Infrastructure Committee or the Rural Infrastructure Committee, as the case may be, duly constituted by the State Government by notification in the Official Gazette<sup>34 35</sup>, from time to time. The Board, shall release the funds directly to the Deputy Commissioner concerned, for execution of such final projects so recommended by the said committees<sup>33</sup>

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<sup>33</sup> As substituted vide notification no. 39-Leg./2015 dated 09.12.2015 & notification no.26-Leg./2016 dated 04.07.2016

<sup>34</sup> Vide notification no. S.O.59/P.A.8/2002/S.28/2015 dated 15.12.2015

<sup>35</sup> Vide notification no. S.O.5/P.A.8/2002/S.28/2016 dated 02.02.2016

**29. Procedure for public hearing.**

- (1) Once the infrastructure project is referred back to the Board in terms of sub-section (4) of section 28, the Board shall provide wide publicity at national level to the proposed infrastructure project or projects, as the case may be, and propose its implementation as per the decided parameters and structures. For this purpose, the Board shall cause the notice of the proposed infrastructure project to be published in the specified manner in the leading local and national newspapers and in the Official Gazette of the State Government. Such public notice shall include highlights of the feasibility report. On demand, a complete copy of the feasibility report shall be made available from the office of the Board on payment of a specified fee.
- (2) The notice shall:-
  - (i) highlight the salient features of the proposed infrastructure project, its parameters or structuring;
  - (ii) invite objections and suggestions from the public to the proposed infrastructure project and its parameters in respect of which objections should be filed with the Board within the period specified in the notice from the date of publication of the notification; and
  - (iii) mention the date, time and place of the proposed public hearing to consider such objections, suggestions or comments.
- (3) The date, time and place of the proposed public hearing referred to above shall be included in the notice by the Board after consultation with the Authority.
- (4) All persons including bona fide residents, Non-Governmental Organizations and others, located at the project sites of displacements likely to be affected by the proposed infrastructure project and other members of public, can participate in the public hearing before the Authority.

**30. Finalisation of the scope, funding and structuring of infrastructure project**

- (1) The Authority shall take into account any objections or suggestions or comments of the concerned persons before approving the proposed infrastructure project, and may either approve the same in its original format or subject to any changes that may be proposed by the Board and found acceptable by the Authority.
- (2) In the event, the Authority is of the opinion that the objections or suggestions or comments so raised in the hearing, are unfounded or baseless or that the same can be dealt with at a later stage, it may, in its discretion allow the Board or the public infrastructure agency to go ahead with the project. Such decision shall be taken within a period of thirty days of the hearing and it shall be final and binding.



**30-A. Exemption from hearing<sup>36</sup>**

Notwithstanding anything contained in this Act, no hearing shall be required to be given in respect of such projects which in the opinion of the Board, primarily involve up-gradation of existing infrastructure project or structuring of management and operation of infrastructure project or have been identified and taken up for development by the Board or any public infrastructure agency prior to the issuance of the notification under sub-section (1) of section 5:

Provided that the State Government may for the reasons to be recorded in writing, exempt any other infrastructure project from giving hearing for facilitating expeditious implementation of such project in public interest.

**30-AA.Exemption of certain projects from public hearing<sup>37</sup>**

The State Government may for the reasons to be recorded in writing, exempt any project or class of projects, from public hearing, if the same involves larger public interest.

**31. Feasibility Report**

Upon identification of the infrastructure project to be developed under section 28, the Board shall direct the Project Management Team or the concerned Sectoral Sub-Committee or Committees to carry out itself or through external service providers or consultants, a feasibility study and to prepare and submit a feasibility report within a period of six months.

**32. Public bidding for the project**

- (1) Upon finalisation of the scope and structure of the infrastructure project under section 30, the Board shall forthwith cause to be published<sup>35</sup>, in at least two national level newspapers out of which, one will be a financial or business newspaper; and in one local newspaper, which is circulated in the region, province, city or municipality in which the project is to be constructed, a notice inviting all interested parties to participate in a competitive public bidding for the infrastructure projects so approved.

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<sup>36</sup> As inserted *vide notification no.31-Leg./2003 dated 03.11.2003*

<sup>37</sup> As inserted *vide notification no.39-Leg./2015 dated 09.12.2015 & notification no.26-Leg./2016 dated 04.07.2016*

- (2) The Board shall be responsible in all respects for all aspects of pre-bidding and bidding processes, including, -
- (i) fixing pre-qualification criteria on the basis of the clearly identifiable parameters known to the Concessionaires, Contractors and the General Public;
  - (ii) arranging pre-bid conferences and bid evaluation conferences with the prospective Concessionaires or Contractors;
  - (iii) issuing clear, comprehensive and fair instructions to bidders, which establish the rules of bidding and shall include all relevant information;
  - (iv) preparing the bid or tender documents, which shall include the following, namely;-
    - (a) instructions to bidders;
    - (b) pre-qualification or qualification parameters, both technical (indicating experience, specific norms, design and performance standards) and financial;
    - (c) draft Concession Agreement or any other appropriate Agreement, clearly defining the basic relationship between the parties with their inter-se rights and responsibilities;
    - (d) bid form; and
    - (e) any other documents, deemed necessary.
- (3) The instructions to the bidders relating to the bidding shall be clear, comprehensive and fair and shall, as far as necessary and practicable, include the following information, namely:-
- (i) general description and objectives of the infrastructure projects;
  - (ii) basic contractual arrangement under which the implementation of the infrastructure project shall be undertaken;
  - (iii) bid submission, procedures and requirements;
  - (iv) bid and bid security validity period;
  - (v) milestone bonding;
  - (vi) method and criteria (including the minimum amount of equity) for the valuation of the technical and financial components of the Bids;
  - (vii) tariff policy, formula and factors to be used for the charge, recovery and appropriation of tolls or fees or rentals by the concessionaire<sup>38</sup>;
  - (viii) requirements of concerned regulatory bodies, if any;
  - (ix) monetary rules and regulations governing foreign exchange remittances, if

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<sup>38</sup> As substituted *vide notification no.31-Leg./2003 dated 03.11.2003*

- relevant;
- (x) revenue sharing arrangements, if any; and
  - (xi) expected commissioning date.
- (4) Minimum design and performance standards or specifications including appropriate environmental standards shall be clearly defined and non-conformity with any of these minimum requirements shall render the bids as non-responsive.
- (5) Financial parameters shall also be described, which amongst others, shall include,-
- (a) maximum period of project construction;
  - (b) fixed term for project operation and collection of tolls or fees or rentals or charges in respect of models of contracts specified in Schedule II;
  - (c) The draft Concession Agreement shall clearly define the basic and legal relationship between the parties as well as the rights and responsibilities of the parties involved. Where applicable, the following matters, among others, shall be included:-
    - (i) bonds, guarantees, insurance, damages;
    - (ii) warranties, indemnities, limitation of liability;
    - (iii) schedule and amount of milestone bonding;
    - (iv) relevant price index to be used;
    - (v) force majeure and its consequences;
    - (vi) effect of changes in circumstances, which may be brought about by, among others, the enactment of new laws or regulations or the change in existing government policies which will materially affect the financial viability of the project;
    - (vii) contract termination and combination;
    - (viii) the governing laws, manner and procedure for the resolution of disputes including partnering, conciliation, arbitration;
    - (ix) project monitoring mechanisms including provisions for independent quality control consultants and dispute review experts on a standing basis; and
    - (ix) taxes and duties.

**33. Pre bid or pre-qualification stage**

- (1) Any person, who fulfills the qualification criteria, may respond to the notice inviting tenders or proposals, subject to the prevalent laws and policies laid down by the Board. The expression 'person' shall include natural and juristic persons, as permissible by policies of the Board, whether of Indian or foreign origin.

- (2) The prospective bidders will be required to prepare and submit their respective pre-qualification documents within the specified period.
- (3) Amongst others, the following may be specified by the Board, as the pre-qualification requirements, namely;-
  - (i) legal requirements;
  - (ii) technical qualifications i.e. the Concessionaire applicant must possess adequate relevant experience in terms of specified requirements for the infrastructure project or sector in question. The applicant should not have committed a material breach in any previous Concession Agreement; and
  - (iii) financial qualification i.e. the Concessionaire must show the capability to sustain the financing requirements of the infrastructure project, which may be measured in terms of proof of the ability of the Concessionaire or to provide a minimum amount of equity to the project and letter of good standing from the bank.
- (4) On the basis of the pre-qualification proposal received, the Board shall mark the pre-qualification documents of each prospective proposer as either pre-qualified or pre-disqualified, as the case may be, within a specified period.

#### **34. Bidding Stage**

- (1) The Board shall make available the related bid documents to all pre-qualified bidders within the specified period to prepare and submit their respective bids.
- (2) The bids will be submitted in two envelopes i.e. the one containing the technical proposal and the other containing the financial proposal.
- (3) The required bid security, if any, shall be valid for the specified period, but in no case it will exceed one hundred and twenty days following the opening of the bids, unless specifically decided by the Board for a particular infrastructure project.
- (4) The evaluation of bids shall be undertaken in two stages in terms of the specified procedure and period.
- (5) The first stage of evaluation shall involve the assessment of the technical proposal regarding technical, operational and environmental, viability of the proposal as contained in the bidder's first envelopes vis-à-vis the specified requirements and criteria or minimum standards and the basic parameters specified in the bidding documents.
- (6) Only those bidders, who have not been disqualified at the first stage of evaluation, shall be eligible to participate in the second stage of evaluation. The second stage of evaluation shall involve the assessment in comparison of the financial proposals of the qualified bidders based on the criteria and parameters specified by the Board in this behalf. Such criteria and parameters, in the case of infrastructure projects without private participation, may provide for clubbing of technical and financial scores for the purposes of determining the bidder eligible for award of work.

- (7) In the case of infrastructure projects based on private participation schemes, the Board shall award the contract to the bidder whose proposed tolls or fees or rentals or charges or period of concession<sup>39</sup> in respect of models of contracts (shortly indicated as BOT, BOO, CAO, DOT, ROT, ROO in Schedule II) and other similar schemes or proposed Schedule of amortization payments in respect of BT, BLT, BTO (as shortly indicated in Schedule II) and other similar schemes, are determined to have the lowest present value.

### **35. Grant of a concession**

- (1) The concession shall be granted by a public infrastructure agency to a bidder who:-
- (i) satisfies the stipulated financial, technical, organizational and legal standards; and
  - (ii) whose bid is the lowest and is in most favorable terms for the project, based on the present value of its proposed tolls, fees, rentals, charges and period of concession<sup>39</sup> over a fixed term for the infrastructure project to be constructed, rehabilitated, operated and maintained as per the stipulated minimum design and performance standards, plans and specifications.
- (2) The purpose of the financial package governing any sector or the concessions to be granted for any infrastructure project will be to ensure that the same is financially viable and bankable to attract maximum private investment. The public infrastructure agencies may have to make substantial investments or grant substantial concessions to make an infrastructure sector or an infrastructure project viable.
- (3) Immediately after the<sup>40</sup> completion of the second stage evaluation, a decision on whether or not to award the contract shall be taken by the Board.
- (4) If the Board takes a decision to award the contract, the Board shall issue to the proposed awardee, the notice of award immediately after such decision<sup>40</sup>.
- (5) The notice of award shall indicate, amongst others, the time within which the proposed awardee shall submit the specified performance security, proof of equity contribution and financing resources, and in the case of a joint venture or consortium, the agreement indicating that the members are jointly and severally responsible for the obligations of the Concessionaire under the contract.

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<sup>39</sup> As amended vide notification no.31-Leg./2003 dated 03.11.2003

<sup>40</sup> As substituted vide notification no.31-Leg./2003 dated 03.11.2003

- (6) The winning bidder shall be granted the concession for the development, operation and maintenance of the infrastructure project, including the right to collect the specified tolls, fees, rentals and charges.
- (7) Withdrawal of any member of a joint venture bidder prior to the actual award or implementation of the infrastructure project, can be a ground for cancellation of the contract and forfeiture of that person's bid security. The Board may, however, proceed with the award of the contract for the implementation of the infrastructure project, if it is of the opinion that the other members of the joint venture or consortium are still capable of carrying out the project or that they have provided a suitable and acceptable substitute with equal or better qualifications.
- (8) The bid and the bid securities shall be kept valid till the process of selection of bidders and the grant of concession is completed. Once the concession is granted, the bid securities shall be returned to the unsuccessful bidders.
- (9) In the event of refusal, inability or failure of the bidder with the lowest complying evaluated bid to make good his bid by entering into Concession Agreement with the State Government within the specified period, the State Government shall forfeit the bid security of such bidder. In such an event, the Board shall consider the next complying and qualified lowest evaluated bid for the award. If the same too fails to execute the Concession Agreement with the State Government, its bid security shall likewise be forfeited, and the Board shall consider the next complying and qualified lowest evaluated bid, and so on until a contract has been entered into. In case, the State Government is unable to execute the contract with any of the complying and qualified bidders due to the refusal of the latter, the project shall be subjected to re-bidding.
- (10) When no bids are received, the bidding shall be declared a failure. In such a case, the bidding shall be re-called for the concerned project.

### **36. Negotiations of contracts**

Negotiation may<sup>41</sup> be resorted to when there is only one bidder complying with the stipulated pre-qualification conditions (hereinafter referred to as the "Complying Bidder") as defined hereunder:-

- (i) if after advertisement, only one concessionaire applied for pre-qualification and it meets the pre-qualification requirements;
- (ii) if after advertisement, more than one concessionaire applied for pre-qualification, but only one meets the pre-qualification requirements;
- (iii) if after pre qualification of more than one concessionaires, only one submits a bid; and

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<sup>41</sup> As amended vide notification no.31-Leg./2003 dated 03.11.2003

- (iv) if after pre-qualification, more than one concessionaires submit bids, but only one is found by the Board to be Complying Bidder.

Provided that, any of the aggrieved disqualified bidder may, within a period of fifteen days from the date of decision of the Board, file appeal to the Authority and the same shall be decided by the Authority within a period of twenty-one days from the date of filing of the appeal.

### **37. Unsolicited proposals**

- (1) When any person makes a representation to the Board with respect to any project, which has not yet been approved or notified in terms of the provisions of this Act, the same may be accepted by the Board on a provisional basis; if such a project involves a new concept or technology.
- (2) On acceptance of the proposal by the Board, the Board may purchase the proposal from the proposer on payment of a sum mutually agreed between the proposer and the Board.
- (3) The Board shall adopt the proposal as a basis for selecting a person with whom Concession Agreement may be entered into, and for selecting such person, the Board shall follow the procedure of public bidding as specified in this Act, in which the proposer may also participate.
- (4) Where the proposal of the proposer, referred to in sub-section (2), is not preferable to the proposal of the selected person, the former shall be given an opportunity to make his proposal competitive with that of the selected person within a period of thirty days from the date on which he has been given opportunity and if the proposer referred to in sub-section (2), fails to do so, the Board may execute the Concession Agreement with the selected person.

### **38. Development through Special Purpose Vehicles**

- (1) If at any time after the pre-feasibility stage, the Board is of the prima-facie opinion that a proposed infrastructure project is unlikely to succeed through private participation, the Board may refer that infrastructure project to the State Government to get the same executed through special purpose vehicle or vehicles by leveraging the funds available with the Board or the public infrastructure agencies.
- (2) In case of private participation in the special purpose vehicles, which are granted Concessions to implement the infrastructure projects referred to in sub-section (1) those special purpose vehicles will be governed by the relevant provisions of this Act, rules and regulations framed thereunder.

**39. Execution of Concession Agreement**

- (1) Immediately after the issuance of the notice of award under sub-section (4) of section 35<sup>42</sup> the public infrastructure agency shall execute a Concession Agreement with the awardee or successful bidder.
- (2) Where the Board, having regard to the nature of an infrastructure project is satisfied that, it is necessary to do so, it may permit combination of two or more model contracts of the nature specified in Schedule II in to one agreement for the purpose of private participation in the development, operation and management of the infrastructure projects.

**CHAPTER VII: PROJECT IMPLEMENTATION**

**40. Tariff**

- (1) Notwithstanding anything contained in any other law enacted by the State Legislature, the concessionaire may, charge, recover and appropriate the tariff in accordance with the terms and conditions of the Concession Agreement in respect of use of any facility or product or service related to or arising out of an infrastructure project, where the development, operation and maintenance of such infrastructure project has been done by the concessionaire at its own expense.
- (2) Any variation of tariff shall require the approval of the Authority. The Authority shall not vary the rate of tariff without consulting the concessionaire and where the tariff is not specified in the Concession Agreement, the Authority shall specify the mode and manner of determination and variation of concessionaire's revenues, and tariff fixation.
- (3) The right of concessionaire to collect, retain and appropriate tariff will be assignable to its lenders for the funding of the development, operation and maintenance of the infrastructure project.

**41. Assignment**

The concessionaire may, with the prior approval of the Authority, offer its rights and interest in the Concession Agreement or the assets of infrastructure project as collateral to any of its financier for any financing availed of by the concessionaire for the infrastructure project, in accordance with an assignment clause enabling the concessionaire to assign his rights and interest as aforesaid subject to the guidelines and regulations issued or made in this behalf.

**42. Feasibility and viability of finalised infrastructure projects and granted concessions**

Once any infrastructure project has been finalised or a concession granted, the State

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<sup>42</sup> As amended vide notification no.31-Leg./2003 dated 03.11.2003



Government and the public bodies will ensure that they do not act in any manner, which results in a material adverse impact on the technical and commercial feasibility or viability of the infrastructure project or the Concession Agreement.

**43. Termination of the Concession Agreement**

- (1) In case the public infrastructure agency considers that it is necessary to terminate any concession, it may terminate the same strictly in accordance with the provisions of the Concession Agreement signed between the parties by passing a speaking order in this behalf, after affording reasonable opportunity of being heard, to such concessionaire. If such concessionaire feels aggrieved of any such termination order, he may file an appeal before the Authority, in this behalf stating the reasons, for setting aside of such order<sup>43</sup>.
- (2) Where a Concession Agreement is terminated by the public infrastructure agency with or without the consent of the concessionaire, the concessionaire shall be entitled to such amount of compensation for such termination, as is specified in the Concession Agreement.

**CHAPTER VIII: APPEAL AND OTHER MISCELLANEOUS PROVISIONS**

**44. Appeals from the orders of Authority**

Any person aggrieved by any decision or order of the Authority, may file an appeal to the High Court of Punjab & Haryana within a period of sixty days from the date of communication of the decision or order of the Authority to him.

**45. Penalties for contravention of directions of Authority**

- (1) If a person violates the directions<sup>44</sup> of the Authority, such person shall be punishable with fine, which may extend to twenty-five thousand rupees and in case of second or subsequent offence, with fine, which may extend to fifty thousand rupees. In case of continuing contravention; with an additional fine, which may extend to five hundred rupees for each day during which such contravention continues after the first offence.
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manger, secretary or other officer of the company, such

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<sup>43</sup> As amended *vide notification no.39-Leg./2015 dated 09.12.2015 & notification no.26-Leg./2016 dated 04.07.2016*

<sup>44</sup> As amended *vide notification no.31-Leg./2003 dated 03.11.2003*

director, manager, secretary or other officer, as the case may be, shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment specified in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Explanation — For the purpose of this section

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

#### **46. Powers of State Government to make rules**

- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power and the matters specifically provided for in this Act, such rules may provide for all or any of the following matters, namely:-
  - (i) prescribing the salary and allowances payable to, and the other terms and conditions of service of the Chairperson, Vice-Chairperson and other members under sub-section (5) of section 7;
  - (ii) prescribing the form and place for preparing the annual report under sub-section (1) of section 13;
  - (iii) prescribing the form and manner of furnishing returns, statements and particulars under sub-section (2) of section 13;
  - (iv) prescribing the manner for assessing, re-assessing, collecting and enforcing payment of fee under sub-section (3) of section 25; and<sup>45</sup>
  - (v) prescribing the manner for maintaining the accounts and submitting the returns under sub-section (4) of section 25.
- (3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the House of the State Legislature, while it is in session, for a total period of fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rules, or the House agrees,

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<sup>45</sup> As substituted *vide notification no.31-Leg./2003 dated 03.11.2003*

that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

**47. Power to issue directions**

The State Government shall have the power to issue policy directions to the Authority and Board on matters concerning the infrastructure sectors and the infrastructure projects in the State. All policy directions issued shall be consistent with the provisions of this Act and the rules made there under and the objects sought to be achieved by this Act.

**48. Subsidy**

The State Government shall issue guidelines concerning the subsidies to be allowed to a class of consumers for providing services or for utilizing facilities of an infrastructure project or infrastructure sector.

**49. Chairperson, Vice-Chairperson, members, officials and employees of the Authority and the Board deemed to be public servants**

The Chairperson, Vice-Chairperson, members, officers and other employees of the Authority and the Board, when acting or purporting to act in pursuance of any of the provisions of this Act, the rules and regulations made there under, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, (Act No. 45 of 1860).

**50. *Omitted***<sup>46</sup>

**51. Protection for action taken in good faith**

No suit, prosecution or other legal proceedings shall lie against the State Government or the Authority or any officer of the State Government or the Chairperson, Vice-Chairperson, any member, officer or other employee of the Authority or the Board for anything, which is done or intended to be done in good faith under this Act and rules or regulations made there under.

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<sup>46</sup> Omitted *vide notification no.31-Leg./2003 dated 03.11.2003*

**52. Power to remove difficulties**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty; Provided that no order shall be made under this section after the expiry of a period of three years from the date of commencement of this Act.
- (2) Every order made under this section, shall be laid, as soon as may be, after it is made, before the Legislative Assembly.

**53. Power to amend the Schedule**

The State Government may, by notification in the Official Gazette amend any Schedule.

**54. Repeal and saving**

- (1) Save as otherwise provided in this Act, the Punjab Infrastructure Development Act, 1998 (Punjab Act No.1 of 1999), shall stand repealed consequent upon the commencement of this Act;  
Provided that such repeal shall not affect,-
  - (a) the previous operation of the Act so repealed or any rules or regulations made there under or anything duly done or suffered thereunder; or
  - (b) any obligation or liability accrued or incurred under the Act so repealed or any rules or regulations made thereunder.

**55. Over-riding effect on other laws**

Save as otherwise provided in this Act, the provisions of this Act, or rules or regulations or bye-laws made thereunder, shall have effect notwithstanding anything inconsistent therewith contained in other law, enacted by the State Legislature and for the time being in force in the State of Punjab.

**56. Bar of jurisdiction of civil courts**

No order passed or action taken under this Act, rules or regulations made thereunder, shall be subject to challenge except as provided in this Act and no civil court shall have jurisdiction in respect of any matter, which the Authority or the Board is empowered to decide and adjudicate upon.

**Schedule I : Infrastructure Sectors**

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**[See section 2 (15)]**

1. Information Technology related infrastructure<sup>47</sup>.
2. Transportation – Roads, bridges, road transport and related areas, for the benefit of public including agricultural community.
3. Urban/Rural infrastructure including<sup>48</sup>,-
  - a) water supply and sewerage;
  - b) sewerage and waste water drainage, disposal and treatment;
  - c) internal roads, streets and street lightning;
  - d) solid waste management;
  - e) parks and grounds;
  - f) urban mass transit system;
  - g) public parking related facilities/ multilevel parking; and
  - h) sports and recreational infrastructure
4. Industrial estates, Industrial parks, Modern Industrial Townships and Special Economic Zones.
5. Irrigation drainage and flood control infrastructure<sup>47</sup>.
6. Other agricultural infrastructure, including post-harvest facilities like warehousing facilities, cold chains, grading processing and marketing<sup>47</sup>.
7. Medical and health care facilities and Medical Research and Education facilities<sup>47</sup>.
8. Tourism related facilities and infrastructure including cultural, historic, heritage and museum facilities<sup>47</sup>.
9. Energy including generation, transmission and distribution infrastructure, fuels, new and renewable sources of energy<sup>47</sup>.
10. Education infrastructure including technical education<sup>47</sup>.
11. Environment and pollution control infrastructure including effluent treatment plants.
12. **Omitted**<sup>47, 48</sup>
13. Civil Aviation including airports, flying clubs, aviation training institutes, airport city side development, airport aviation & non-aviation facilities<sup>49</sup>.

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<sup>47</sup> As amended vide notification no. 7(1)11/01-5FE-4/4506 dated 13.07.2006

<sup>48</sup> As amended vide notification no.S.O.14/P.A.8/2002/Ss.2 and 53/2011 dated 21.02.2011

<sup>49</sup> Inserted vide notification no. 10/5/1/07-5FE4/1713 dated 28.03.2008

14. Social infrastructure including<sup>50, 51</sup>:-
- (a) social reform infrastructure including prisons, Juvenile Homes, Social Reformatory Institutes and other Correctional Facilities;
  - (b) social service infrastructure including better/ IT enabled administration of birth and death certificates, registration of marriages, vehicle registration, driving licenses, pensions, rehabilitation of widows and aged persons, utility bills, ration cards and identification cards and other public services; and
  - (c) other social infrastructure on Public Private Partnership mode including slum rehabilitation, Economically weaker Sections housing facilities, old age homes, orphanages and day care facilities.
15. **Omitted**<sup>50, 51</sup>
16. Governance infrastructure including judicial/ administrative buildings and housing facilities<sup>50</sup>.

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<sup>50</sup> As amended vide notification no.7/1/11/2001-5FE4/29 dated 15.01.2010

<sup>51</sup> As amended vide notification no.S.O.14/P.A.8/2002/Ss.2 and 53/2011 dated 21.02.2011

**Schedule II: Models of Contracts**

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[See section 2 (6)]

- (a) **Build Operate and Transfer (BOT)** shall mean a contractual arrangement whereby the Concessionaire undertakes the construction, including financing, of a given infrastructure facility, and the operation and maintenance thereof. The Concessionaire operates the facility over a fixed term during which it is allowed to charge facility users appropriate tolls, fees, rentals, and charges not exceeding these proposed in its bid or as negotiated and incorporated in the contract to enable the Concessionaire to recover its investment, and operating and maintenance expenses in the project. The Concessionaire transfers the facility to the Government Agency or Local Government unit concerned at the end of the fixed term specified in the Concession Agreement<sup>52</sup>.
- (b) **Build-Own-Operate-and-Transfer (BOOT)** shall mean a project based on the granting of a Concession by a Principal (the Union or Government or a local authority) to the Concessionaire, who is responsible for the construction, financing, operation and maintenance of a facility over the period of the Concession before finally transferring the facility, at no cost to the Principal, a fully operational facility. During the Concession period the Promoter owns and operates the facility and collects revenue in order to repay the financing and investment costs, maintain and operate the facility and make a margin of profit.
- (c) **Build-and-Transfer (BT)** shall mean a contractual arrangement whereby the Concessionaire undertakes the financing and construction of a given infrastructure or development facility and after its completion turns it over to the Government Agency or Local Government unit concerned, which shall pay the proponent on an agreed Schedule its total investments expended on the project, plus a reasonable rate of return thereon. This arrangement may be employed in the construction of any infrastructure or development project, including critical facilities which, for security or strategic reasons, must be operated directly by the Government.
- (d) **Build-Own-and-Operate (BOO)** shall mean a contractual arrangement whereby a Concessionaire is authorized to finance, construct, own, operate and maintain an infrastructure or development facility from which the proponent is allowed to recover its total investment, operating and maintenance costs plus a reasonable return thereon by collecting tolls, fees, rentals or other charges from facility users.
- (e) **Build-Lease-and-Transfer (BLT)** shall mean a contractual arrangement whereby a Concessionaire is authorized to finance and construct an infrastructure or development

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<sup>52</sup> As amended vide notification no. 10/5/1/07-5FE4/7342 dated 28.11.2007

facility and upon its completion turns it over to the government agency or local government unit concerned on a lease arrangement for a fixed period after which ownership of the facility is automatically transferred to the government agency or local government unit concerned.

- (f) **Build-Transfer-and-Operate (BTO)** shall mean a contractual arrangement whereby the public sector contracts out the building of an infrastructure facility to a private entity such that the Concessionaire builds the facility on a turn-key basis, assuming cost overrun, delay and specified performance risks. Once the facility is commissioned satisfactorily, title is transferred to the implementing agency. The private entity however, operates the facility on behalf of the implementing agency under an agreement.
- (g) **Contract-Add-and-Operate (CAO)** shall mean a contractual arrangement whereby the Concessionaire adds to an existing infrastructure facility which it is renting from the government. It operates the expanded project over an agreed franchise period. There may, or may not be, a transfer arrangement in regard to the facility
- (h) **Develop Operate and Transfer (DOT)** shall mean a contractual arrangement whereby favorable conditions external to a new infrastructure project which is to be built by a private project proponent are integrated into the arrangement by giving that entity the right to develop adjoining property, and thus, enjoy some of the benefits the investment creates such as higher property or rent values.
- (i) **Lease Management Agreement** An agreement whereby the State Government, the Government Agency or the specified Agency leases a project owned by the State Government, the Government Agency or, as the case may be, the specified Government Agency to the person who is permitted to operate and maintain the project for the period specified in the agreement.
- (j) **Management Agreement** An agreement whereby the State Government, the Government Agency or the specified Government Agency entrusts the operation and management of the project to a person for the period specified in the agreement on payment of specified consideration. In such agreement, the State Government, the Government Agency or, as the case may be, the specified Government Agency may charge the user fee and collect the same either itself or entrust the collection for consideration to any person who shall after collecting the user fees pay the same to the State Government, the Government Agency or, as the case may be, the specified Government Agency.
- (k) **Rehabilitate-Operate-and-Transfer (ROT)** shall mean contractual arrangement whereby an existing facility is turned over to the private sector to refurbish, operate and maintain for a franchise period, at the expiry of which the legal title to the facility is turned over to the government. The term is also used to describe the purchase of an existing facility from abroad, importing, refurbishing, erecting and consuming it within the host country.
- (l) **Rehabilitate-Own-and-Operate (ROO)** shall mean a contractual arrangement whereby



an existing facility is turned over to the private sector to refurbish and operate with no time limitation imposed on ownership. As long as the operator is not in violation of its franchise, it can continue to operate the facility in perpetuity.

- (m) **Service Contract Agreement** shall mean an agreement whereby a person undertakes to perform the service for the State Government for the specified period. The State Government shall pay him an amount according to the agreed Schedule.
- (n) **Supply, Operate and Transfer Agreement** shall mean an agreement whereby a person supply to the State Government equipment and machinery for a project and undertakes to operate the project for a period and consideration specified in the agreement. During the operation of the project, he shall undertake to train the employees of the State Government to operate the project.

**Schedule III: Articles subject to levy of fee under the Act**  
**[See section 25]**

Sr. No.	Description of articles and goods	Circumstances and stage under and at which the fee is to be levied under this Act.
1.	All agricultural produces as defined in the Punjab Agricultural Produce Market Act, 1961 except <sup>53</sup> (i) Fruits; (ii) Vegetables; (iii) Pulses; (iv) Wheat and Maize purchased by the Wheat and Maize processing industries directly from the farmers for manufacture of wheat and maize flour and for all other secondary/tertiary products of wheat and maize in the State of Punjab. <sup>54</sup> (v) Purchase of paddy by such industrial units which have been granted the Special Package of Incentives by the Empowered Committee constituted under the Industrial Policy, 2003, upto limits or duration and subject to the terms and conditions approved by the Empowered Committee <sup>55</sup> .	The levy shall be at the first stage of purchase of the commodity concerned in the State of Punjab <sup>56, 57, 58</sup> .

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<sup>53</sup> Prior to the operation of this Act, the State Government in terms of earlier Act i.e. Punjab Infrastructure Development Act, 1998 (since repealed) exempted items mentioned at Sr. No.1(i), (ii) & (iii) vide notification no.1-Leg./99 dated 12.01.1999 which has been retained under the existing Act notified on 11.07.2002.

<sup>54</sup> The State Government in terms of earlier Act i.e. Punjab Infrastructure Development Act, 1998 (since repealed) exempted item mentioned at Sr. No.1(iv) vide notification no. S.O. 14/P.A.1/99/S.4/Amd./2002 dated 27.04.2002 which has been retained under the existing Act notified on 11.07.2002.

<sup>55</sup> As amended vide notification no. 7/1/11/2001-5FEIV/6785 dated 22.08.2005

<sup>56</sup> As amended vide notification no. 7(1)11/01-5FE-4/4506 dated 13.07.2006

<sup>57</sup> As amended vide notification no. 7(1)11/01-5FE-4/63 dated 10.10.2008

<sup>58</sup> As amended vide notification no. 7(1)11/01-5FE-4/337 dated 06.08.2009

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	<p>(vi) Paddy purchased by private purchasers, to the extent non-basmati rice derived out of such paddy, is exported by such purchasers; provided such private purchasers, submit a valid proof of the export so made, to the assessing and Controlling Authority<sup>59</sup>.</p> <p>(vii) Paddy purchased by private purchasers, to the extent basmati rice derived out of such paddy for export and has been exported provided such exporters submit a valid proof of the export so made, to the assessing and Controlling Authority<sup>60</sup>.</p> <p>(viii) Omitted<sup>61, 62</sup>.</p> <p>(ix) Cotton Seed (Banaula) and Cotton (Ginned and Un-ginned) <sup>63</sup>.</p>	
2.	Petrol.	The levy shall be at the first stage of sale of petrol in the State of Punjab <sup>64</sup> .
3.	Diesel.	The levy shall be at the first stage of sale of diesel in the State of Punjab <sup>64</sup> .

**REKHA MITTAL,**  
**Secretary to Government of Punjab,**  
**Department of Legal and Legislature Affairs.**

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<sup>59</sup> As amended vide notification no. S.O. 85/P.A.8/2002/S.25/2012 dated 25.09.2012

<sup>60</sup> As amended vide notification no. 1/30/12-5FEIV/767 dated 07.11.2012

<sup>61</sup> As amended vide notification no. 1/30/12-5FEIV/536 dated 23.10.2013

<sup>62</sup> As amended vide notification no. S.O.49/P.A.8/2002/S.53/2015 dated 10.11.2015

<sup>63</sup> As amended vide notification no. S.O.13/P.A.8/2002/S.25/2014 dated 03.02.2014

<sup>64</sup> As amended vide notification no. 7(1)11/01-5FE-4/4506 dated 13.07.2006

**STATEMENTS OF OBJECTS AND REASONS**

The Punjab Infrastructure (Development and Regulation) Bill, 2002 is proposed to provide high priority on infrastructure development to accelerate economic and industrial growth in the State. In view of the volume of funds required for infrastructure development, the State Government wishes to encourage the private sector to supplement its efforts in developing the infrastructure facilities by participating in its financial and/ or development operations and management thereof. This Bill seeks to establish a regulatory framework which will provide clear guidelines for all aspects for infrastructure development from the conception to the implementation.

**LAL SINGH,**  
Finance Minister, Punjab.

**FINANCIAL MEMORANDUM**

The Punjab Infrastructure (Development and Regulation) Bill, 2002 is being introduced to attract and facilitate private participation in infrastructure development as the State Government recognizes the need to :-

- (a) have an overarching legislation to secure a level playing field for private participations;
- (b) establish a transparent regulatory framework governed by an autonomous regulator; and
- (c) grant various concessions and incentives to make the infrastructure projects and the investment opportunities viable and attractive.

The actual financial implications can only be worked out as and when any incentives are granted in this regard.

**MEMORANDUM REGARDING DELEGATION LEGISLATION**

Clause 24 of the Punjab Infrastructure (Development and Regulation) Bill, 2002 empowers the Board to make the Bye-laws for carrying out the purpose of the Bill. The powers sought are necessary for the proper implementation of the provisions of the Bill and are normal in nature.

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The Governor has, in pursuance of clause (1) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction of the Bill.

CHANDIGARH :  
The 25<sup>th</sup> June, 2002

NACHHATTAR SING MAVI,  
Secretary.

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*N.B.* - The above Bill was published in the *Punjab Government Gazette (Extraordinary)*, dated the 25<sup>th</sup> June, 2002, under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).

**PUNJAB INFRASTRUCTURE DEVELOPMENT BOARD BYE-LAWS,  
2002**

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In exercise of powers conferred by Sub-Section 1 of Section 24 of the Punjab Infrastructure (Development & Regulation) Act, 2002 (Punjab Act No. 8 of 2002), and all other powers enabling it in this behalf, the Board is pleased to make the following bye-laws, namely :-

**BYE-LAWS**

**CHAPTER 1**

**GENERAL**

**1. Short title, Commencement and Interpretation**

- (1) These bye-laws may be called the 'Punjab Infrastructure Development Board Bye-Laws, 2002'.
- (2) They shall come into force with effect from the date on which they are approved by the Board or by the Executive Committee in pursuance of the power delegated to it.
- (3) They shall extend to the State of Punjab.

**2. Definitions**

- (1) In these bye-laws, unless the context otherwise requires:
  - (i) '**Act**' means the Punjab Infrastructure (Development & Regulation) Act, 2002 (Punjab Act No.8 of 2002) and any law of the State of Punjab that replaces the Act;
  - (ii) '**Board**' means the Punjab Infrastructure Development Board constituted under Section 18 of the Act;
  - (iii) '**Chairman**' means the Chairman of the Board;

- (iv) **'Executive Committee'** means the Executive Committee of the Board constituted under Sub-Section (4) of Section 18 of the Act;
  - (v) **'Leave Rules'** means the leave rules approved by the Executive Committee in its 3<sup>rd</sup> meeting.
  - (vi) **'Managing Director'** means the Managing Director of the Board who shall also hold office as the Convenor of the Executive Committee;
  - (vii) **'Member'** means a member of the Board;
  - (viii) **'Member Secretary'** means the Member Secretary of the Board as per clause (d) of Sub-Section (2) of Section 18 of the Act;
  - (ix) **'Project Management Team'** means the Project Management Team of the Board as defined in Sub-Section (21) of Section 2 of the Act;
  - (x) **'Vice Chairman'** means the Vice Chairman of the Board;
- (2) Words or expressions occurring in these bye-laws and not defined herein above shall bear the same meaning as in the Act.

## CHAPTER 2

### FUNCTIONING OF THE BOARD

#### 3. Offices, office hours and sittings of the Board

- (1) The place of the offices of the Board may from time to time be specified by the Board, by an order made in that behalf.
- (2) Unless otherwise directed, the headquarters and other offices of the Board shall be open daily, except on Saturdays, Sundays and holidays notified by the Government of Punjab. The headquarters and other offices of the Board shall be open at such times as the Board may direct.
- (3) Where the last day for doing of any act falls on a day on which the office of the Board is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which the office is open.



- (4) The Board may hold sittings for its deliberations or for hearing representations on matters at the headquarters or at any other place on days and time to be specified by the Board.

**4. Vacancies not to invalidate proceedings of Board**

No act or proceeding of the Board shall be invalid merely by reason of -

- (i) any vacancy in, or any defect in the constitution of the Board; or
- (ii) any defect in the appointment of a person acting as a Chairman or Vice-Chairman or Member of the Board; or
- (iii) any irregularity in the procedure of the Board not affecting the merits of the case.

**5. Proceedings of the Board**

- (1) The Board may from time to time hold such proceedings as it may consider appropriate in the discharge of its functions under the Act.
- (2) The nature of the proceedings shall be determined by the Chairman.
- (3) The proceedings may include consultation with experts, hearing of the representations of affected or interested parties, administrative meetings of Members of the Board, or any other activity that the Board considers appropriate in order to discharge its functions and fulfill its objectives.

**6. Role and functions of Member Secretary**

- (1) The Member Secretary shall act as the Convenor for the meetings of the Board.
- (2) The Member Secretary shall be responsible for the preparation of Agenda for the Board Meetings. He shall be empowered to get the minutes approved for subsequent circulation amongst all concerned.
- (3) The Member Secretary shall submit various reports to the Board.

- (4) The Member Secretary shall perform the role of “Competent Authority” for the purpose of granting approvals for specific purposes to the Managing Director.

**7. Managing Director, Officers and other Employees of the Board**

- (1) The Board shall have a Managing Director, such other officers and employees as the Board may decide from time to time and are appointed in accordance with the provisions of Sub-Sections (1) and (2) of Section 23 of the Act.
- (2) The conditions of service of such officers and employees and their functions and duties shall be such as may be determined by the Board from time to time.
- (3) The Managing Director, officers and other employees of the Board shall be entitled to leave, leave accumulation and leave encashment as per the leave rules of the Board approved by the Board in its 7<sup>th</sup> Meeting, which shall be deemed to be a part of these bye-laws.
- (4) The officers and employees of the Board shall be entitled to conveyance facility or monetary reimbursement in lieu thereof, as per the vehicle propulsion scheme adopted by the Executive Committee from time to time, which shall be deemed to be a part of these bye-laws.

**CHAPTER 3**

**COMMITTEES OF THE BOARD**

**8. Constitution, functions and powers of the Executive Committee**

- (1) To aid and assist the Board in its functioning and implementation of the provisions of the Act, the Board shall constitute an Executive Committee in pursuance of Sub-Section (3) of Section 18 of the Act.
- (2) The Executive Committee may exercise all such powers and authorities of the Board as are necessary to discharge its functions and are capable of being delegated to the Executive Committee, wherein the expression “capable of being

delegated” implies that approval of the Board for specific delegation shall not be required.

- (3) Without prejudice to the generality of Article 8(2) above, the following functions of the Board shall be performed by the Executive Committee.
- (i) Conducting of discussions and making of recommendations for appropriate decision of the Board pertaining to issues under the scope of the powers of the Board.
  - (ii) Review of progress of each and every project to which the Act applies.
  - (iii) Finalisation and approval of selection criteria for award of contracts, studies and consultancies for such infrastructure projects to which the Act applies, in consultation with the concerned Public Infrastructure Agencies.
  - (iv) Finalisation and approval of model DNITs, draft contracts including concession agreements for such infrastructure projects to which the Act applies, in consultation with the concerned Public Infrastructure Agencies.
  - (v) Granting approval for the award of projects’ related contracts by the concerned Public Infrastructure Agencies, in respect of such infrastructure projects to which the Act applies. The Executive Committee may delegate such power of granting approval to any other Committee of the Board in respect of any individual projects, as it may deem fit.
  - (vi) Sorting out interdepartmental issues.
  - (vii) Any other matters as the Board may deem appropriate from time to time.
  - (viii) Constitution of any Committee under the Act and delegating part of its power to such Committee.

**9. Constitution, functions and powers of Sectoral Sub-Committees**

- (1) The Board shall constitute a Sectoral Sub-Committee for each specialized infrastructure sector in which projects are to be developed and implemented, provided such infrastructure sector is covered by Schedule I of the Act.
- (2) Each Sectoral Sub-Committee shall consist of chairman/ convenor and two other members of the Project Management Team as representatives of PIDB and one senior most technical person, concerned nodal officer and one expert nominee of the Secretary in-charge of the concerned Public Infrastructure Agency.
- (3) The role, functions and powers of various Sectoral Sub-Committees shall be as follows :
  - (i) Approval of pre-feasibility reports, detailed project reports etc. pertaining to the projects to which the Act applies.
  - (ii) Prescribing and freezing technical specifications pertaining to projects to which the Act applies.
  - (iii) Finalising alignment of roads, engineering and architectural designs, layout etc. pertaining to projects to which the Act applies.
  - (iv) Taking decisions on issues concerning land acquisition, utility relocation, environmental clearances, rehabilitation and pollution matters pertaining to projects to which the Act applies.
  - (v) Examining adherence to the parameters of the model DNIT(s) approved by the Board, Executive Committee or any other high powered committee exercising the powers of the Board or the Executive Committee and recommending modifications to the technical, financial, legal and other aspects of the project specific DNITs before finally approving the project specific DNITs for implementation of PIDB sponsored/ funded infrastructure projects by the concerned Public Infrastructure Agencies.

- (vi) Evaluation of bids including scrutiny of documents submitted by the bidders, conducting pre-bid conferences, issuing clarifications to bidders – either on its own or through the officials of the concerned Public Infrastructure Agency or through the external consultants or service providers engaged by the Board in pursuance of the provisions of the Act, selection of bidders and making recommendations to the Executive Committee, regarding infrastructure projects sponsored/ funded by PIDB.
  - (vii) Developing a system for monitoring the overall progress, construction quality, timeliness, compliance with contractual, technical and legal provisions pertaining to the projects to which the Act applies and keeping the Executive Committee or any other competent high powered committee informed about the implementation of the same.
  - (viii) Developing a system for monitoring of the execution of the Infrastructure Projects and various reports to be submitted by the Contractor or Concessionaire or facility operator or as the case may be.
  - (ix) To provide various reports and information to the Executive Committee or to any other competent high powered committee, as may be required by such committee from time to time.
- (4) The Managing Director shall be responsible for providing appropriate space in PIDB's office for the holding of meetings, storage of records/ documents of Sectoral Sub-Committees and for prescribing procedures to be adopted for the internal functioning of Sectoral Sub-Committees, frequency of their meetings etc.
- (5) The respective Convenors of Sectoral Sub-Committees shall be responsible for the preparation of minutes and agenda, besides storage of all records and documents relevant for the functioning of Sectoral Sub-Committee.

**10. Appointment and Powers of the Managing Director**

- (1) The State Government shall appoint the Managing Director from amongst its officers or by appointing an expert having sufficient expertise in infrastructure development.
- (2) The Managing Director shall assist the Board in its day to day functioning and exercise such powers and authorities as may be delegated by the Board from time to time which shall include, but not be limited to the functions and authorities as set out in **Schedule-I** hereto.

**11. Delegation of Powers of the Board**

The Board may delegate any of its powers, functions and authorities to the Executive Committee, Sectoral Sub-Committee, any other committee constituted under the Act or the Managing Director.

**12. Full Powers with Board**

Irrespective of whatever delegation of functions may have been carried out under the bye-laws or otherwise, the Board shall always retain with itself full powers with respect to the following matters pertaining to all employees, except employees equivalent to Group "C" and "D" category of employees of Government of Punjab :

- (i) Appointment of the employees.
- (ii) Termination of Service.
- (iii) Acceptance of Resignation.

**CHAPTER 4**  
**INFRASTRUCTURE PROJECTS**

**13. Identification of Projects**

In discharging its functions of identification, selection and prioritisation of Infrastructure Projects, the Board shall consult any of the Public Infrastructure Agencies or any other Government or private agency.

**14. Technical and Financial Consultancy**

For the preparation of techno-feasibility studies, detailed project reports, specifications, plans, designs, detailed estimates, DNITs etc., technical or financial consultancy services may be arranged in pursuance of clause (ii) of Sub-Section (2) of Section 20 or clause (v) of Sub-Section (4) of Section 20 or in pursuance any other provision of the Act.

The above reports will be deliberated upon and evaluated by the concerned Sectoral Sub-Committee, before being placed before the Executive Committee or any other competent high powered committee.

**15. Execution and implementation of infrastructure projects**

- (1) In terms of Sub-Section (2) of Section 32 of the Act, the Board shall be responsible in all respects for all aspects of pre-bidding and bidding processes and in accordance with the provisions of Sub-Sections (4), (5), (6) and (7) of Section 28 of the Act as follows:

**(a) For Public Private Partnership (PPP) projects:**

Processes incidental to PPP projects may be carried out by the Board through the Project Management Team or the Sectoral Sub-Committee or any other committee, as the case may be. If any concession is required to be granted to a bidder in respect of any private participation project, the same shall be granted by the concerned Public Infrastructure Agency pursuant to the approval of the Board

or the Executive Committee, provided the bidder meets the criteria specified in Sub-Section (1) of Section 35 of the Act.

**(b) For Engineering Procurement Construction (EPC) projects:**

Processes incidental to EPC projects may be carried out by the Board through the Project Management Team or the Sectoral Sub Committee or Public Infrastructure Agencies or any other Committee, as the case may be. The execution, implementation and supervision pertaining to specific projects shall be carried by the concerned Public Infrastructure Agencies as per the provisions of the Act and Article 16 of the PIDB Bye-laws, 2002.

- (2) Notwithstanding anything contained in these bye-laws, the power of signing of any infrastructure project specific contracts or concession agreements will remain with the competent authority of the concerned Public Infrastructure Agency, who shall be responsible for executing the same with the proposed awardee within a period of 30 days from the date of receipt of notice of award issued by the Board under Sub-Section (4) of Section 34 of the Act. As per Sub-Section (4) of Section 34 of the Act, the Board shall issue the notice of award to the awardee within a period of fifteen days from the date of the final decision along with a copy of the same to the concerned Public Infrastructure Agency.

**16. Execution and Supervision of work**

- (1) The concerned Public Infrastructure Agencies will be responsible for the execution and supervision of work pertaining to specific projects and payment to the Contractors, as required in pursuance of various contractual arrangements. The concerned Public Infrastructure Agencies shall make the payments to the Contractors directly.



- (2) Prior to release by PIDB, of any funds for development or implementation of infrastructure projects, the concerned Sectoral Sub-Committee shall submit to the Executive Committee of PIDB, a detailed fund requirement plan.
- (3) Once the fund requirement plan is approved by the Executive Committee, it shall make adequate provision for the release of the funds according to the approved fund requirement plan.

#### **17. Release of Project Related Expenses**

The following financial powers shall be exercised by the Executive Committee and the Managing Director for promotion and implementation of the Infrastructure Projects :

Where fund requirement plan for any particular Infrastructure Project has been approved by the Executive Committee, the Managing Director shall have the full power to release the funds within the parameters of the approved fund requirement plan.

Where in pursuance of any decision of the Executive Committee, a project has been taken up for development and project preparatory activities including consultancy services, utility relocation etc., the Managing Director shall have the full power to release the funds required towards implementation of such decision.

#### **18. Delegation of Powers to the Managing Director**

Unless the Board directs otherwise, any of the powers and functions delegated by the Board to the Executive Committee may be further delegated by the Executive Committee to the Managing Director, subject to such terms and conditions, as the Executive Committee may deem appropriate.

**Schedule-I**

Unless directed otherwise by the Board, the following powers and authority of the Board shall be exercised by the Managing Director.

**I Contracts, Engagements and Payments**

To Sign all contracts, engagements of professionals/ individuals/ entities, legal documents, financial documents and all other letters/ correspondence required to be signed for and on behalf of the Board and making of payments in pursuance thereof, provided that no contract shall be signed without obtaining due sanction from the competent authority i.e. Member Secretary, as required under Sub-Section (5) of Section 23 of the Act.

**II Establishment Matters**

- (i) To act as the appointing authority in case of fresh appointments pertaining to employees equivalent to Group “C” and “D” category of Punjab Government, any employees already on the payroll and working for the Board on deputation or otherwise and to make suitable recommendations for other categories of employees of the Board.
- (ii) Promotion of employees as per the bye-laws or decision(s) of the Board, assigning appropriate designation to properly reflect the job profile, substitution of new posts against the existing posts on account of promotion of employees or changed job requirements and recommending the creation of additional posts to the Board and the procedure for selection and appointment thereto.
- (iii) To act as the appointing authority and punishing authority in the case of employees equivalent to Group “C” and “D” category of Punjab Government and to make suitable recommendations for other categories of employees of the Board.

- (iv) Grant of leave to the employees as per the bye-laws of the Board.
- (v) Powers to refuse leave or to recall employees from leave.
- (vi) Grant of up to five advance increments on the recommendations of the selection committee at the time of confirmation of employees in cases where the Managing Director is the appointing authority.
- (vii) Approving the entitlements for the employees under the bye-laws or decision(s) of the Board regarding travel, medical reimbursement, LTC, provident fund, bonus, gratuity, advance for purchase of vehicle, advances for house building, ex-gratia grants etc.
- (viii) Awarding and reviewing of penalties prescribed in the bye-laws or by the decision(s) of the Board.
- (ix) Grant of annual increments in accordance with the scale prescribed by the Board. Where no pay scales have been prescribed, the Managing Director shall be automatically authorized and considered competent to prescribe and sanction higher pay scale or annual increment upto the rate of twenty percent of the total annual emoluments.
- (x) Deputing the officers of the Board and the officers of the concerned Public Infrastructure Agencies who are associated with projects being executed in pursuance of the provisions of the Act to attend training programs, short term courses, conferences etc. and sanction expenses for the same.
- (xi) Engaging private Service Providers for cleaning, housekeeping, secretarial work, administrative assistance, managerial/ professional assistance, record keeping, library maintenance, accounting, bookkeeping and other support services for the office of the Board.
- (xii) Declaration of completion of probation and extension in the period of probation, as may be applicable to all categories of employees.

- (xiii) Confirmation of employees in the service of the Board.
- (xiv) Deputing representatives of PIDB to the Sectoral Sub-Committees, under Article 9(2) of the bye-laws.

**III Financial Matters**

- (i) Controlling, drawing and disbursing officer for himself/ herself and all the employees of the Board.
- (ii) Sanctioning of actual cost of travel by employees of the Board, provided such travel is undertaken in the interest of the official work of the Board.
- (iii) Determining the rate of honorarium payable per meeting and approving the payment of honorarium and reimbursement of expenses on account of attending the meetings of the Board, to the technical experts nominated by the State Government as members of the Board in pursuance of Clause (g) of Sub-Section 2 of Section 18 of the Act.
- (iv) Sanctioning of reimbursement of medical bills of the employees.
- (v) Sanctioning of tours, travel allowance bills, local conveyance bills, overtime allowance bills and leave travel concession claims.
- (vi) Sanctioning of housing loans and conveyance advance subject to yearly budget provision and the bye-laws or relevant decision(s) of the Board.
- (vii) Hiring or otherwise acquiring vehicles, furniture, office equipment etc. and sanctioning the payment in respect thereof.
- (viii) Taking insurance for building, furniture, equipment and installations of the Board.
- (ix) Approval and disbursement of expenditure on running, maintenance and repairs of staff cars or other vehicles of the Board.
- (x) Sanctioning expenditure on maintenance and up keep of office equipment, building etc.
- (xi) Sanction of liveries to class - IV employees.

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- (xii) Payment of transport charges, freight etc.
- (xiii) Disposal of unserviceable articles, equipment, old newspapers/ books/ magazines and other obsolete items.
- (xiv) Deposit of funds in short-term fixed deposits with nationalized and scheduled Banks.
- (xv) Expenditure on the hiring of accommodation for office, storage and other purposes, as per Lease Deed or any other form of contract agreement, subject to budget provisions.
- (xvi) Expenditure upto Rs.100,000/- per function or event including, seminars, conferences and ceremonial functions etc. sponsored by or organised on behalf of the Board.
- (xvii) Expenditure on entertainment, subject to budget provision.
- (xviii) Expenditure on publicity, subject to budget provision.
- (xix) Sanctioning of leave encashment for officers and other employees of the Board, as per the bye-laws.
- (xx) Sanctioning the expenditure on utilities including but not limited to telephone, fax, mobile phone, telex, courier, postal services, electricity, water etc., as per the bye-laws or decision(s) of the Board in this regard, which may be taken from time to time on its own or on the basis of any instructions/ circulars of the State Government.
- (xxi) Expenditure not exceeding Rs.4,50,000/- (per item) on the purchase of vehicle(s) and office items including but not limited to furniture, furnishing items, computers, printers, photocopiers, PABX, fax machine, LCD Projector, fans, lights, air conditioners, stationary, office consumables, pantry items, etc..
- (xxii) Expenditure upto Rs.30,000/- in the nature of contingency expenditure, recurring and non-recurring expenditure for items not covered above.

#### **IV Legal Matters**

- (i) Power to engage advocates, solicitors, attornies, company secretaries etc., nominate arbitrators/ conciliators/ mediators, file suits and defend cases, provided, however, that important cases are reported to the Executive Committee.
- (ii) Sanctioning and payment of legal expenses including but not limited to statutory fee, court fee, out of pocket expenses, professional fee etc. for various legal matters. Such individual legal matters in which the payment exceeds Rs.4,00,000.00 are to be reported to the Executive Committee.

#### **V Purchases and Purchase Procedure**

MD shall be competent to the effect purchase of office equipment, furniture, fittings (including furnishing of office), stationery and printing of forms/ pamphlets/ booklets, fire fighting equipment, newspapers, books, periodicals and publications by adopting the following procedure:-

- (i) No quotation be obtained for purchase of one or more items made at a time upto the amount of Rs.1000/-.
- (ii) Quotations from at least three parties/ vendors will be obtained for the purchase of one or more items costing between Rs.1001 to Rs.5000/-.
- (iii) Quotations from at least six parties/ vendors will be obtained where the purchase involves one or more items costing between Rs.5001 to Rs.25,000/-.
- (iv) For the purchase of one or more items costing between Rs.25,001/- and upto Rs.1,00,000/-, tenders from local dealers would be necessary, but the same need not be published through press.
- (v) For effecting purchases above Rs.1,00,000/-, tender shall be invited through press.

Provided that it shall not be necessary to invite quotations/ tenders in the following cases:-

- (i) On the spot purchase made by constitution of purchase committee or officer(s) appointed by the Managing Director for the purpose.
- (ii) Purchase made from authorized dealers or specific brands at the rates fixed by their principals for the whole country/ region/ state/ city.

## **VI Delegation**

Sub delegation of powers to various officers of the Board, as well as the withdrawal of powers that have been sub delegated in such a manner. However, any sub-delegation of financial powers to an individual officer for a period longer than 15 days in a single instance shall be reported to the Executive Committee for information.

## **PUNJAB INFRASTRUCTURE DEVELOPMENT BOARD LEAVE RULES**

(To be read with Article 7(3) of the Punjab Infrastructure Development Board Bye-Laws, 2002)

### **1. Title**

These Bye-laws may be referred to as the “Punjab Infrastructure Development Board Leave Rules.”

### **2. Date of enforcement**

November 21, 2000\*

### **3. Scope of application**

These rules shall be applicable to all employees of the PIDB, except those on deputation.

### **4. Types of Leave**

All employees of PIDB, except those on deputation, will be entitled to the following kinds of leave :

- (i) Casual Leave
- (ii) Sick Leave
- (iii) Earned Leave
- (iv) Study Leave
- (v) Maternity Leave
- (vi) Public Holidays

### **5. Casual Leave**

15 days of casual leave in one calendar year (of service) shall be admissible to all employees.

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\* As per interpretation confirmed by competent authority under Rule 13, in the case of contractual employee Sh. Subash Khanna.



Casual leave will be non-cumulative and no other leave of any kind, except leave without pay, can be combined with it. Holidays occurring during or at the beginning or at the end of the period of casual leave shall be excluded. Casual leave shall not be asked or allowed for more than ten days at a time.

All women employees of the PIDB shall be entitled to 20 days casual leave every year, irrespective of the number of years in service put in by them.

**6. Sick Leave**

All employees of the PIDB shall be entitled for each year of service to 10 days sick leave on full pay. An employee availing more than three days of sick leave at a time, must produce a medical certificate from PIDB's Medical Officer or from a Doctor in a Government Hospital. Holidays intervening the sick leave period shall be considered as part of the sick leave.

Sick leave will be cumulative upto 60 days on full pay.

**7. Earned Leave**

All employees shall be entitled to 30 days of earned leave on full pay for every year of service (it will be calculated @ 1/12 of the period spent on duty). Leave without pay shall not be counted as period of service. Earned leave shall be cumulative upto 450 days.

**8. Study Leave**

Study leave may be granted to an employee for the purpose of undertaking studies of scientific, technical or similar problems or to undergo special course of instructions or training/ conference in or outside India on such terms and conditions as may fixed by the Managing Director.

**9. Maternity Leave**

The Managing Director may grant to female employees (with exception of those appointed on adhoc basis), maternity leave for a period of 180 days without the necessity of production of Medical Certificate. Extension, if any, beyond 180 days, shall however be permissible by the grant of the leave of kind due. Such leave shall not be debited to the

leave account of the employee and shall not be granted to those who have three or more children living.

Normally, leave applied for, if due will be granted. However, the same can be refused in the interest of the work of the PIDB.

When an employee resigns or his services are terminated except by dismissal from service for misconduct or he attains the age of superannuation/ completion of tenure, the employee shall be paid for the leave due to his credit. (Maximum 300 days of unutilized earned leave on the basis of lumpsum emoluments, or basic pay and DA and no CCA and HRA, shall be payable).

**10. Public Holidays & working Hours**

The PIDB will observe public holidays and working hours as observed by the offices of the Punjab Government.

**11. Authority**

Leave of all kinds will be sanctioned either by the Managing Director or by any officer of the PIDB so authorized by him to the extent of such authority

**12. Amendment of Rules**

The PIDB reserves the right to modify/ cancel or amend all or any of these rules and issue supplementary rules or amendments thereto without previous notice. PIDB also reserves the right to give effect to the modifications/ cancellations or amendments of the rules and/or supplementary rules from the date of issue or from any other period.

**13. Interpretation of Leave Rules**

The Managing Director reserves the power to interpret these rules and/or the supplementary rules. The decision of the Managing Director shall be final.

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**PUNJAB INFRASTRUCTURE DEVELOPMENT BOARD  
UNSOLICITED PROPOSAL BYE-LAWS, 2008**

In exercise of the powers conferred by Sub-section (1) and Clause (v) of Sub-section (2) of Section 24 read with Section 37 of the Punjab Infrastructure (Development & Regulation) Act, 2002 (Punjab Act No. 8 of 2002), and all other powers enabling it in this behalf, the Board is pleased to make the following Bye-laws namely :-

**BYE-LAWS**

**1. Short Title and Commencement.** - (1) These bye-laws may be called the “Punjab Infrastructure Development Unsolicited Proposal Bye-laws, 2008”.

Section  
37 read  
with  
Section  
24(1)&(2)  
(v)

(2) These bye-laws shall come into force with effect from March 24, 2008.

(3) These bye-laws shall extend to the State of Punjab.

**2. Definitions.** – In these bye-laws, unless the context other-wise requires :-

(a) “**Act**” means the Punjab Infrastructure (Development & Regulation) Act, 2002;

Section 37  
(1),(2),(3)  
&(4) read  
with  
Section  
24(1)&(2)(  
v)

(b) “**person**” includes –

- i. an individual,
- ii. a Hindu undivided family,
- iii. a company,
- iv. a firm,
- v. an association of persons or a body of individuals, whether incorporated or not,
- vi. a Local Authority, and
- vii. every artificial juridical person, not falling within any of the preceding sub-clauses.

(c) “**proposal**” means a detailed proposal for the development, maintenance or operation of an infrastructure project received by the Board from any person in terms of sub-sections (1) to (4) of section 37 of the Act.

(d) “**proposer**” means a person who submits a representation or an Unsolicited Proposal to the Board.

- (e) **“representation”** means a brief representation with respect to the intended development, operation or maintenance of any infrastructure project received by the Board without any solicitation by the Board or by any Public Infrastructure Agency.
- (f) **"unsolicited proposal"** means a detailed proposal for the development, maintenance or operation of an infrastructure project received by the Board from any person without any invitation in terms of sub-sections (1) and (2) of section 37 of the Act.

The words and expressions used in these bye-laws but not defined, shall have the same meaning as assigned to them in the Act.

Section 37  
(1) read  
with  
Section  
24(1)&(2)(  
v)

**3. Requirements of a valid representation** – A representation may be classified as a valid representation only if it complies with the following requirements :

- (1) The representation should have been received by the Board without any solicitation either by the Board or by any Public Infrastructure Agency.
- (2) In the opinion of the Board, the project to which the representation pertains, involves a new concept or technology, whether unique or not, including but not limited to engineering practice, financing model, legal framework or the project implementation structure.
- (3) In the opinion of the Board, the representation has been prepared without the supervision, direction or direct involvement of the Board or any Public Infrastructure Agency, except for the role played by the Board or any Public Infrastructure Agency in sharing any information, data or documents which are not classified as confidential and are otherwise in the public domain.
- (4) The representation contains adequate information about the technical, financial, legal, managerial and other capabilities of the proposer, which would enable the Board to ascertain the ability of the proposer to implement the infrastructure project.
- (5) The representation contains a commitment with regard to the timeframe within which the person making the representation shall submit the unsolicited proposal

to the Board, provided however the timeframe committed for the submission of the unsolicited proposal shall not be beyond the period of eighteen months from the date of acceptance of the representation.

**4. Acceptance of valid representation on provisional basis** – A valid representation in respect of a particular infrastructure project may be accepted by the Board on a provisional basis, provided -

- (1) Any other valid representation with respect to the same or substantially similar infrastructure project intended to be situated at the same geographical location has not been earlier received by the Board.
- (2) The person making the representation has deposited the “representation processing fee” and “representation holding security” as per Articles 8 and 9 respectively.
- (3) Irrespective of the timeframe committed in clause (5) of Article 3, the person making the representation is agreeable to submit the unsolicited proposal to the Board within such timeframe, as shall be stipulated by the Board for the submission of the unsolicited proposal; provided however, in no case shall the timeframe beyond the period of eighteen months from the date of acceptance of the representation be stipulated or allowed by the Board.

Section 37  
(1) read  
with  
Section  
24(1)&(2)  
(v)

**5. Requirements of a valid unsolicited proposal** – A proposal may be classified as a valid unsolicited proposal only if it complies with the following requirements -

- (1) The proposal should have been received by the Board without any solicitation either by the Board or by any Public Infrastructure Agency or the same should have been received by the Board in pursuance of any valid representation accepted by the Board on a provisional basis under sub-section (1) of section 37.
- (2) In the opinion of the Board, the project to which the proposal pertains, involves a new concept or technology, whether unique or not, including but not limited to engineering practice, financing model, legal framework or the project implementation structure.
- (3) In the opinion of the Board, the proposal has been prepared without the supervision, direction or direct involvement of the Board or any Public Infrastructure Agency, except for the role played by the Board or any Public

Section 37  
(1) & (3)  
read with  
Section  
24(1)&(2)  
(v)

Infrastructure Agency in sharing any information, data or documents which are not classified as confidential and are otherwise in the public domain.

- (4) The proposal is detailed upto such an extent that it includes all the essential technical, financial and legal parameters which would enable the Board to prepare the bidding documents for following the procedure of public bidding in pursuance of sub-section (3) of section 37 of the Act.
- (5) The proposal clearly specifies the lowest or the highest bid of the proposer, which could subsequently be made by the Board as the single bid variable for the purpose of evaluation under Clause (ii) of sub-section (1) of section 35.
- (6) In the opinion of the Board, the proposer of the proposal possesses adequate technical, financial, legal, managerial and other capabilities, as would be essentially required for the successful implementation of the infrastructure project.

6. **Acceptance of valid unsolicited proposal** – A valid unsolicited proposal in respect of a particular infrastructure project may be accepted by the Board, provided -

- (1) Any other valid unsolicited proposal with respect to the same or substantially similar infrastructure project intended to be situated at the same geographical location has not been earlier received by the Board.
- (2) The proposer of the unsolicited proposal has deposited the “proposal processing fee” and “proposal security” as per Articles 10 and 11 respectively.

7. **Purchase of proposal** – On acceptance of the unsolicited proposal by the Board, the Board may purchase the unsolicited proposal from the proposer on payment of a sum mutually agreed between the proposer and the Board, provided however, prior to entering into the mutual agreement in this regard, the Board may, if required, seek justification including supporting documents towards break-up of the cost incurred by the proposer for preparing the proposal or the value of the proposal, as may be otherwise claimed by the proposer.

8. **Representation processing fee** – Each representation should be accompanied by a non-refundable representation processing fee by way of a demand draft for the amount of rupees five lakhs payable at Chandigarh in favour of the Board.

Section 37  
(1) &(3)  
read with  
Section  
24(1)&(2)(  
v)

Section 37  
(2) read  
with  
Section  
24(1)&(2)(  
v)

Section 37  
(1) read  
with  
Section  
24(1)&(2)  
(v)

**9. Representation holding security** – (1) Each representation should be accompanied by a representation holding security for an amount equivalent to 0.25% of the tentative total cost of the infrastructure project to which the representation pertains or an amount of rupees twenty five lakhs, whichever is higher.

Section 37  
(1) read  
with  
Section  
24(1)&(2)(  
v)

(2) The representation holding security should be submitted by way of a demand draft for the requisite amount payable at Chandigarh in favour of the Board or by way of an unconditional and irrevocable bank guarantee for the requisite amount issued in the name of the Board by any Scheduled Bank.

(3) The representation holding security shall be initially valid for a minimum period of twelve months, provided however the proposer shall be subsequently obliged to extend the validity period of the representation holding security upto one month beyond the period stipulated or allowed by the Board under Clause (3) of Article 4, if the period stipulated or allowed by the Board is longer than eleven months from the date of acceptance of the representation by the Board.

(4) The representation holding security shall be returned by the Board to the person making the representation if the person submits a valid unsolicited proposal within the timeframe stipulated by the Board under clause (3) of Article 4.

(5) The representation holding security of the person making the representation shall be forfeited by the Board if the person fails to submit a valid unsolicited proposal within the timeframe stipulated by the Board under clause (3) of Article 4.

**10. Proposal processing fee** – (1) Each proposal should be accompanied by a non-refundable proposal processing fee for an amount equivalent to 0.10% of the tentative total cost of the infrastructure project to which the proposal pertains, subject to a maximum of rupees one crore.

Section 37  
(2) read  
with  
Section  
24(1)&(2)(  
v)

(2) The proposal processing fee should be submitted by way of a demand draft for the requisite amount payable at Chandigarh in favour of the Board.

PUNJAB GOVT. GAZ. (EXTRA.), JULY 9, 2002  
(ASAR 18, 1924 SAKA)

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11. **Proposal security** - (1) Each proposal should be accompanied by a proposal security equivalent to 1 % of the tentative total cost of the infrastructure project to which the proposal pertains, subject to a maximum of rupees one hundred crore.

Section 37  
(2) read  
with  
Section  
24(1)&(2)  
(v)

(2) The proposal security should be submitted by way of a demand draft for the requisite amount payable at Chandigarh in favour of the Board or by way of an unconditional and irrevocable bank guarantee for the requisite amount issued in the name of the Board by any Scheduled Bank.

(3) The proposal security shall initially remain valid for a period of one year from the date of submission of the unsolicited proposal and during such period the Board shall make efforts to issue the notice of award to the selected bidder pursuant to accomplishing the reverse public bidding process in respect of the infrastructure project to which the unsolicited proposal pertains; provided however, the proposer shall be obliged to extend the validity of the proposal security for a further period of six months, if the Board is not able to issue the notice of award to the selected bidder within the initial period of one year.

(4) The proposal security shall be returned by the Board to the person submitting the unsolicited proposal after the Board has issued the notice of award to the selected bidder and upon receipt of the performance security from such selected bidder as per the requirement of the concession agreement.

(5) The proposal security of the person submitting the unsolicited proposal shall be forfeited by the Board if the person either backtracks from its unsolicited proposal at any stage prior to, during or after the public bidding process or refuses to sign the concession agreement or fails to submit the performance security as per the requirement of the concession agreement.

Section  
37(1)& (3)  
read with  
Section  
24(1)&(2)  
(v)

12. **Finality of Decision** – (1) The decision of the Board with regard to the validity of a representation under Article 3 and the validity of an unsolicited proposal under Article 5 shall be final and binding on all persons, proposers and third parties.

(2) The decision of the Board whether or not to accept a valid representation under Article 4 and whether or not to accept a valid unsolicited proposal under Article 6 shall be final and binding on all persons, proposers and third parties.

Section 37  
(3) read  
with  
Section  
24(1)&(2)  
(v)

13. **Right of the Board to determine the contents of the bidding documents** – (1) The Board shall at all times retain with itself the right to determine the contents of the bidding documents including but not limited to the qualification criteria for the persons other than the proposer who intend to participate in the reverse public bidding process.



(2) The Board shall specify the amount of the proposal security required to be submitted by the persons other than the proposer of the unsolicited proposal who intend to participate in the bidding process, provided however the amount of the proposal security required to be submitted by such persons shall under no circumstances be more than half the total amount of the proposal security submitted by the proposer of the unsolicited proposal.

(3) The Board shall specify the amount of the performance security which shall be required to be submitted by the selected bidder, whether such selected bidder is the proposer of the unsolicited proposal or any other person.

**14. Rights of the proposer of the unsolicited proposal during the reverse public bidding process** – (1) The unsolicited proposal of the proposer shall be deemed to be the lowest and the most favorable bid in terms of clause (ii) of sub-section (1) of section 35 of the Act in case proposal is not received from any other person.

(2) In the event one or more proposal other than the unsolicited proposal is received by the Board during the reverse public bidding process, the proposer of the unsolicited proposal shall be given an opportunity to make his proposal competitive with the proposal of the person whose proposal is found to be the lowest and the most favorable bid in terms of clause (ii) of sub-section (1) of section 35 of the Act.

(3) In the event the proposer of the unsolicited proposal declines to make his proposal competitive upon availing the opportunity under clause (2) above, the Board shall take a decision whether or not to award the contract to the person whose proposal is found to be the lowest and the most favorable bid under clause (2) above read with clause (ii) of sub-section (1) of section 35 of the Act.

Section  
37(4) read  
with  
Section  
24(1)&(2)(  
v)